# PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

3379. By Mr. MEAD: Petition of Local Union No. 44 of the National Leather Workers' Association, Gowanda, N. Y.; to the Committee on Ways and Means.

3380. By Mr. THOMASON of Texas: Petition of the First Methodist Church of Big Lake, Tex., expressing opposition to war and any policy on the part of this country that would endanger its peace and security; to the Committee on Foreign Affairs

3381. By Mr. RUTHERFORD: Petition of the citizens of New Milford, Susquehanna County, Pa., opposing the proposed wage and hour bill; to the Committee on Labor.

3382. By Mr. KENNEDY of New York: Petition of the New York Turn Verein, New York City, concerning one Dietrich Worthman, who is not and never has been a member or an officer of the New York Turn Verein; to the Committee on the Judiciary.

3383. By Mr. TEIGAN: Petition of the farmers of Anoka County, Minn., requesting that legislation of a permanent nature be enacted providing for parity prices of farm products, an ever-normal granary, production control of major farm crops, other uses of submarginal land, continuance of the present soil-conservation program, and consumers' protection on farm products; to the Committee on Agriculture.

3384. Also, petition of the Eagle Bend National Farm Loan Association, requesting that the Federal Farm Loan Act be redrafted or amended in such manner that it will restore all of its cooperative features incorporated in it originally and, in addition, revert the \$4.50 per loan per annum, now paid by the Federal land bank to the various groups as a service allowance, to the individual associations; to the Committee on Banking and Currency.

# SENATE

# Monday, November 22, 1937

(Legislative day of Tuesday, November 16, 1937)

The Senate met at 12 o'clock meridian, on the expiration of the recess

HIRAM W. JOHNSON, a Senator from the State of California, and A. HARRY MOORE, a Senator from the State of New Jersey, appeared in their seats today.

# THE JOURNAL

On request of Mr. Barkley, and by unanimous consent, the reading of the Journal of the proceedings of the calendar day Friday, November 19, 1937, was dispensed with, and the Journal was approved.

# CALL OF THE ROLL

Mr. LEWIS. Mr. President, as it is reported the probability is that an agricultural bill will be reported to the Senate, noting the absence of a quorum, I ask for a roll call in order to secure the presence thereof.

The VICE PRESIDENT. The clerk will call the roll.

The Chief Clerk called the roll, and the following Senators answered to their names:

Adams	Copeland	King	Pittman
Andrews	Davis	La Follette	Pope
Ashurst	Dieterich	Lee	Radcliffe
Austin	Duffy	Lewis	Russell
Bailey	Ellender	Lodge	Schwartz
Bankhead	Frazier	Logan	Schwellenbach
Barkley	George	Lonergan	Sheppard
Bilbo	Gerry	Lundeen	Shipstead
Bone	Gibson	McAdoo	Smith
Borah	Gillette	McGill	Steiwer
Bridges	Glass	McKellar	Thomas, Okla.
Brown, N. H.	Graves	McNary	Thomas, Utah
Bulkley	Green	Maloney	Townsend
Bulow	Guffey	Miller	Truman
Burke	Hale	Moore	Tydings
Byrd	Harrison	Murray	Våndenberg
Byrnes	Hatch	Neely	Van Nuys
Capper	Hayden	Norris	Wagner
Caraway	Herring	Nye	White
Chavez	Hitchcock	O'Mahoney	
Clark	Johnson, Calif.	Overton	
Connally	Johnson, Colo.	Pepper	

Mr. LEWIS. I announce that the Senator from West Virginia [Mr. Holt], the Senator from Delaware [Mr, Hughes], and the Senator from North Carolina [Mr. Reynolds] are absent from the Senate because of illness.

The Senator from New Jersey [Mr. SMATHERS] is absent because of illness in his family.

The Senator from Michigan [Mr. Brown], the Senator from Ohio [Mr. Donahey], the Senator from Nevada [Mr. McCarran], the Senator from Indiana [Mr. Minton], the Senator from Massachusetts [Mr. Walsh], the Senator from Tennessee [Mr. Berry], and the Senator from Montana [Mr. Wheeler] are necessarily detained from the Senate.

The VICE PRESIDENT. Eighty-five Senators have answered to their names. A quorum is present.

# UNITED STATES CONSTITUTION SESQUICENTENNIAL COMMISSION

The VICE PRESIDENT. Under the provisions of Public Resolution 53, approved August 23, 1935, the Chair appoints the Senator from Kentucky [Mr. Barkley] as a member of the United States Constitution Sesquicentennial Commission, to fill the vacancy caused by the death of Hon. Joseph T. Robinson, late a Senator from the State of Arkansas.

#### AIRCRAFT AND AMERICAN MERCHANT MARINE

The VICE PRESIDENT laid before the Senate a letter from the Chairman of the United States Maritime Commission, transmitting, pursuant to law, a report of the Commission recommending appropriate legislation to make applicable to aircraft engaging in foreign commerce certain provisions of the Merchant Marine Act, 1936, and also embodying the results of the Commission's study pursuant to section 212 (b) (2) on transoceanic aircraft service, which, with the accompanying report, was referred to the Committee on Commerce.

### PETITIONS AND MEMORIALS

The VICE PRESIDENT laid before the Senate petitions of several citizens of New York City, N. Y., praying for the prompt enactment of the bill (H. R. 1507) to assure to persons within the jurisdiction of every State the equal protection of the laws, and to punish the crime of lynching, which were ordered to lie on the table.

He also laid before the Senate papers in the nature of memorials from Southern California District Council No. 4, Maritime Federation of the Pacific Coast, San Pedro, Calif., remonstrating against the enactment of the so-called Pettengill bill, being the bill (H. R. 1668) to amend paragraph (1) of section 4 of the Interstate Commerce Act, as amended February 28, 1920 (U. S. C., title 49, sec. 4), known as the long-and-short-haul clause, which were referred to the Committee on Interstate Commerce.

TRIBUTES TO THE VICE PRESIDENT ON THE ANNIVERSARY OF HIS

# Mr. BYRNES. Mr. President-

The VICE PRESIDENT. At the time the Senate took a recess on Friday last the Senator from Louisiana [Mr. Overton] had the floor, and the Chair recognizes the Senator from Louisiana. Does the Senator from Louisiana yield to the Senator from South Carolina?

Mr. OVERTON. I yield to the Senator from South Carolina and to other Senators who may desire to speak in honor of the occasion of which the Senator from South Carolina will remind the Senate.

Mr. BYRNES. Mr. President, I have asked the Senator from Louisiana to yield to me for the purpose of enabling me to call the attention of the Senate to the fact that this is the anniversary of the birthday of the Presiding Officer of the Senate, the Vice President of the United States.

Mr. President, for 25 years it has been my pleasure intimately to know the Vice President of the United States. For the greater part of that time I served with him in the House of Representatives. I think he was happier at that end of the Capitol because over there he could talk from the floor as well as off the floor. Since he has come to preside over this body, I am sure that he has won the respect and earned the affection of every Member of the Senate. Possess-

ing intelligence and common sense, character and courage, he has rendered magnificent service to this country.

Today he is 69 years young. His head is erect and his feet are firmly on the ground. He loves his country; he loves the Members of the Senate; and I know that every Member of the Senate would like to have the opportunity of saying something in a congratulatory way on this occasion.

My earnest hope is that for our sake, and for the country's sake, the Vice President will be with us for many years to

come.

Mr. McNARY. Mr. President, I do not want to let this pleasurable opportunity pass without including the Republican Members of the Senate in broadening the base of the tribute paid by the Senator from South Carolina to our

distinguished Vice President.

The Vice President has had the unique distinction of presiding over the House of Representatives as its Speaker and over the Senate as Vice President of the United States. During that period his vision has never been impaired. He has always been able to see a Republican and recognize him. I am happy to observe that in the Senate, where the Republicans are now surrounded by Democrats, the Vice President can and does see Republican Senators as they arise to seek recognition.

We love and admire the Vice President because of his geniality, his usefulness, his impartiality, and his capacity; and I join with my Democratic brethren and the public generally in wishing for him many more years of usefulness,

happiness, and good health.

Mr. BARKLEY. Mr. President, I wish, in just a word, to add my tribute not to the age but to the youthfulness of the Vice President, and, even more, to add my tribute to the accomplishments which have marked his pathway through

Nearly 25 years ago, longer than I like publicly to admit, I entered the House of Representatives of which he was then a Member, and for 14 years I served with him in that body. The longer I served with him and the closer I observed him the more I appreciated his real character, his rugged honesty, his intelligence, his practicability, and the general allaround legislative qualities that have made him so valuable to the country.

I think I might say of him what a friend of mine once said about himself, "I am what I am and I ain't no am-er." That certainly expresses the characteristics of the Vice President. He is what he is, without pretense, and we love and respect him for what he is.

I join in the wish that he may continue to serve his country with that same degree of fidelity which has marked his long public service, and I wish for him many more returns of this day that they may serve as additional landmarks of his notable career.

Mr. SHEPPARD. Mr. President, on behalf of the State of Texas, I desire to thank the Senators for their kind and generous comments upon this occasion, the anniversary of the birthday of Vice President Garner. I desire to share most heartily in these tributes, and to say that his service as Vice President is a landmark in American history, in that he has taken the Vice Presidency out of the category of merely a nominal position and made it a place of real usefulness and power. His service as Vice President is but another step in one of the most useful and outstanding careers in our country's annals.

Mr. LEWIS. Mr. President, it has been characteristic of legislative and historic writers to refer to the office of the Vice President of the United States as an office accompanied with much anomaly, characterized as a great office without responsibility, and with no power. The able Senator from Texas [Mr. Sheppard] has just made an allusion justifying the statement that in the present case the holder of that office, Vice President Garner, by his demeanor and manner of service has demonstrated that he is an exception to that general impeachment which has accompanied that great office.

Mr. President, the scholars of literature around me will recall that Cato is addressing himself to himself. He has established a garden to occupy his retirement. He wishes to avoid the hurly-burly and tempestuous career of politics as had been his pursuit. He invites all those about him to think if there cannot be found in him the true quality of a neighbor which, as he would have it, is made up of affection for his friends and service to mankind.

Senators will recall the only observation Shakespeare leaves touching the pathos of lonely old age. He merely defines that the highest reward is realized when one has earned the regard of the citizenship of his life, that he may thereafter enjoy the fruits of friendship, and know of the praise of "troops of friends."

This distinguished occupant of the office of Vice President, John Nance Garner, enjoys the affection of those who know him. He holds for the future an assurance of the enjoyment of these troops of friends. As one of the spokesmen in the Senate of the Western States, I heartily join in these tributes to this distinguished officer, and, further joining, I hope that long he may be spared to us in his friendship and to his country in its service.

Mr. CONNALLY. Mr. President, I am impelled to say a few words on this occasion for the reason that I have probably known the Vice President over a longer span of years than has any other Member of this body. I first knew the Vice President when he and I were Members of the House of Representatives of the Texas Legislature 36 years ago. I have seen the Vice President in all the varied political and public activities of a long and useful public career.

The Vice President illustrates a real success story. The Vice President came from humble beginnings, as most men did in Texas a generation or two ago. He rose from comparative obscurity to one of the loftiest stations in the world. I can say of the Vice President that, contrary to the opinion of some journals, the Vice President is not what is sometimes called a reactionary. I served with him for 12 years in the House of Representatives. During that time, when liberals were not so numerous as they now claim to be and when liberals were not so vocal as some of them now seem to be. the Vice President, then a Member of the House of Representatives, was leading the fight in behalf of liberalism and against the great so-called special and privileged interests. I remember on one occasion the Vice President brought about opposition to himself in his congressional district and the expenditure of probably a hundred thousand dollars in an effort to defeat him for renomination because in the House he had sponsored a high inheritance tax. Those selfish interests, not alone in his own district but throughout the United States, banded together to try to encompass his defeat. Of course, that effort was not successful.

Mr. President, it has been said that the present Vice President is one of two men in the United States to serve both as Speaker of the House of Representatives and Vice President of the United States. The present occupant of that high office has a record which is not equaled by the other. In the case of the other individual he entered upon both those high stations with loud acclaim and much applause, and he went out of office all soiled and stained by the tongue of scandal and the tongue of political corruption; whereas in the case of the present Vice President he entered upon these high stations with the beating of no tom-toms, and since he has occupied the Speaker's chair in the House of Representatives and occupied the Presiding Officer's chair in this Chamber, with each succeeding day his fame has been enlarged and his luster has been brightened and enhanced.

Mr. President, as a citizen of Texas I take great pride in voicing the happiness of our people that the Honorable John N. Garner, by his own distinguished and able career, has brought glory to the people of his State. He possesses the three necessary qualifications for a great man in this Chamber or in the other. First, he has character; second, he has courage; third, he has ability. No public man need desire better equipment or nobler attributes.

I congratulate the Vice President. I hope he will live for a great many more years and I hope the Government during those lengthening years may have constantly his counsel and advice, as I know it will have his love and his undying devotion.

Mr. McADOO. Mr. President, California feels a peculiar pride in the Vice President, the Honorable John N. Garner. She has supported him for high office with great satisfaction and with distinction to herself. On behalf of my State I congratulate him on his sixty-ninth birthday anniversary. I am glad to know he is so much younger in years than I am and that he is so much older in fame and achievement than I am

California rejoices that he is the Presiding Officer of this great body; she prides herself in his achievements, and wishes for him a continuing career of even greater achievement and distinction than he has already attained.

Mr. CLARK. Mr. President, not only the Members of this body, who are intimately associated with the Vice President of the United States, and the Members of the House of Representatives, over which he was formerly the very distinguished and able presiding officer, but the people of the United States at large rejoice in congratulating the great Vice President of the United States upon his celebration of another birthday.

I know well that what the Senator from Texas [Mr. Connally] says is true of the pride which must be possessed by that great Commonwealth for its distinguished son who presides over this body; but I can say to the Senator from Texas that the people of all other States and all citizens of the United States join in the pride and admiration which the people of Texas feel for Vice President Garner.

It has been my pleasure and my privilege to have known and loved the Vice President of the United States ever since his first entrance into the House of Representatives many years ago when I was but a small boy. I believe he is an exemplification of the principles which ought always to be followed in the selection and election of a Vice President of the United States, which perhaps sometimes have not been followed-selecting as Vice President a man who in every way measures up to the qualifications of the Presidency itself. I am sure it will be universally agreed that in his conduct of the high office which he now holds, Vice President Garner has restored the Vice Presidency of the United States to the position of a great office of great prestige and influence which it was originally intended to have and which it had in the early days of this Government. To the Vice President and his lovely wife we all wish health, prosperity, and length of days.

Mrs. CARAWAY. Mr. President, I desire to felicitate the Senate on its Vice President. I also wish to join in the good wishes for him on this his sixty-ninth birthday anniversary.

Arkansas feels that the Vice President is a neighbor. While a good many miles separate his Texas home from us, we are an adjoining State. We do not think that reflects so much credit on the Vice President, but we do claim that it reflects some credit on us.

I also wish to felicitate Mrs. Garner on the fact that through all the years of their marriage she has taken care of the Vice President's health in such a manner that we may confidently hope to have him spared to us for many more years.

Mr. SMITH. Mr. President, as the oldest Senator on the Democratic side in length of service, I wish to state that I have been here with six Vice Presidents and to bear testimony to the fact that in his occupancy of the chair the present Vice President has measured up to, if not exceeded, the service of any of those who have presided over this body during my practically 30 years of service as a Senator.

Mr. OVERTON. Mr. President, I was very happy indeed to yield to my colleagues who have presented their gifts of praise to the Vice President upon the very happy occasion of the sixty-ninth anniversary of his birth. I wish to add my tribute to the Vice President.

When I came to Congress I served for one term in the House of Representatives. At that time I came in contact with the present Vice President, who was then Speaker of the House. I found him very sympathetic toward and very considerate of a new Member. For almost 6 years I have had the pleasure of serving in the United States Senate with Mr. Garner as its Presiding Officer. He has always been extremely courteous to all Members of the Senate. As the Senator from Oregon [Mr. McNaryl has said, he has conducted the duties of his office without any partiality whatsoever; and regardless of political affiliations, any Senator obtains the recognition of the Chair.

Mr. President, I trust that the days of our Vice President may be long in the land, and that the service he has given to the country may continue for many years. He has been faithful to every trust.

# ADDITIONAL PETITIONS AND MEMORIALS

Mr. LODGE presented the petition of sundry students at the Massachusetts State College, Amherst, Mass., praying for the immediate application of the Neutrality Act in connection with the present Sino-Japanese conflict, which was referred to the Committee on Foreign Relations,

Mr. CAPPER presented a petition, numerously signed, of members of the Woman's Christian Temperance Union of Pretty Prairie, Kans., praying for the enactment of the socalled Capper-Culken bill, to prohibit the advertising of alcoholic beverages, which was referred to the Committee on Interstate Commerce.

He also presented resolutions adopted by Great Western Lodge, No. 24, of Parsons, and Perfect Lodge, No. 298, of Kansas City, both of the Brotherhood of Locomotive Firemen and Enginemen, in the State of Kansas, favoring amendment of the Railroad Retirement Act so as to provide for the payment of annuities to disabled railroad employees with 15 years of service and for forced retirement at the age of 65 years, which were referred to the Committee on Interstate Commerce.

Mr. COPELAND presented the petition of members of Lt. Fred H. Clark Post, No. 91, American Legion, Mechanicville, N. Y., favoring the enactment of the so-called Sheppard bill, being the bill (S. 25) to prevent profiteering in time of war and to equalize the burdens of war and thus provide for the national defense and promote peace, which was referred to the Committee on Finance.

He also presented a resolution unanimously adopted by the Central Mercantile Association, of New York City, N. Y., favoring amendment or revision of the corporate undistributed profits tax as an aid to the operation of business, and also the balancing of the Budget, which was referred to the Committee on Finance.

He also presented a resolution adopted by members of the Civic and Business Federation of White Plains, N. Y., favoring prompt revision or repeal of the capital gains and corporate undistributed profits taxes, and also a "breathing spell" for business, which was referred to the Committee on Finance.

Mr. WAGNER presented a resolution adopted by a mass meeting held under the auspices of the National Negro Congress expressing gratitude to the Senators from Indiana [Mr. Van Nuys and Mr. Minton] and the Senator from New York [Mr. Wagner] for their efforts in behalf of the enactment of pending antilynching legislation, which was ordered to lie on the table.

He also presented resolutions adopted by a mass meeting held under the auspices of the Federation of American Virgin Islands Societies, at New York City, N. Y., and also by a recent conference of the Committee for Industrial Organization, favoring the enactment of the bill (H. R. 1507) to assure to persons within the jurisdiction of every State the equal protection of the laws, and to punish the crime of lynching, which were ordered to lie on the table.

He also presented a resolution adopted by a mass meeting held by the Social Democratic Branch at the Amalgamated Houses, Van Cortlandt Park South, New York City, N. Y., favoring the prompt enactment of the so-called Black-Connery wage and hour bill, and also other labor-farmer legislation, which was ordered to lie on the table.

#### AGRICULTURAL RELIEF

Mr. SMITH. From the Committee on Agriculture and Forestry I report back favorably, with amendments, the bill (S. 2787) to provide an adequate and balanced flow of the major agricultural commodities in interstate and foreign commerce, and for other purposes, and I submit a report (No. 1295) thereon. The bill will be ready for the consideration of this body tomorrow morning.

The PRESIDENT pro tempore. Without objection, the

report will be received and the bill placed on the calendar.

#### BILLS AND JOINT RESOLUTIONS INTRODUCED

Bills and joint resolutions were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. BULKLEY:

A bill (S. 3031) for the relief of the Lima Locomotive Works, Inc.; to the Committee on Claims.

By Mr. McADOO:

A bill (S. 3032) to amend the Panama Canal Act; to the Committee on Interoceanic Canals.

By Mr. NEELY:

A bill (S. 3033) for the relief of William Luther Amonette, Jr.; to the Committee on Naval Affairs.

By Mr. COPELAND:

A joint resolution (S. J. Res. 226) to provide for the erection of a suitable memorial to the memory of Comte de Grasse; to the Committee on the Library.

By Mr. LODGE:

A joint resolution (S. J. Res. 227) to maintain American living standards and preserve peace; to the Committee on Finance.

MODIFICATION OF UNDISTRIBUTED PROFITS TAX-AMENDMENT

Mr. BULKLEY submitted an amendment intended to be proposed by him to the bill (H. R. 6215) to repeal provisions of the income tax requiring lists of compensation paid to officers and employees of corporations, which was referred to the Committee on Finance and ordered to be printed.

OPINION OF SUPREME COURT-THE FIRST NATIONAL BANK & TRUST CO. AGAINST FRANCIS E. BEACH (S. DOC. NO. 122)

Mr. FRAZIER. Mr. President, I ask unanimous consent to have printed as a Senate document the opinion of the Supreme Court of the United States in the case of The First National Bank & Trust Co., of Bridgeport, Conn., trustee, petitioner, against Francis E. Beach, respondent. It is a definition of the word "farmer" as set out under section 75 of the Bankruptcy Act, and, in my opinion, is quite important in bankruptcy cases.

The PRESIDENT pro tempore. Without objection, the opinion will be printed, as requested by the Senator from

North Dakota.

PROGRAM OF THE SPECIAL SESSION-ADDRESS BY SENATOR BARKLEY

[Mr. BARKLEY asked and obtained leave to have printed in the RECORD a radio address delivered by himself on Monday, November 15, 1937, on the program of the special session, which appears in the Appendix.]

PRESERVATION OF NATURAL RESOURCES—ADDRESS BY SECRETARY OF THE INTERIOR

IMr. GUFFEY asked and obtained leave to have printed in the RECORD a radio address delivered on the 1st instant by Hon. Harold L. Ickes, Secretary of the Interior, entitled "We Must Husband our Resources," which appears in the Appendix.]

ADDRESS BY HON. FRANCIS B. SAYRE AT STATE CONVENTION, WISCONSIN PARMERS' UNION

[Mr. Duffy asked and obtained leave to have printed in the RECORD an address delivered by Hon, Francis B. Sayre. Assistant Secretary of State, at the State convention of the Wisconsin Farmers' Union at Madison, Wis., November 3, 1937, which appears in the Appendix.]

IMPORTATION OF SHOES UNDER RECIPROCAL TRADE AGREEMENTS-ARTICLE FROM BOSTON SUNDAY ADVERTISER

IMr Longs asked and obtained leave to have printed in the RECORD an article from the Boston Sunday Advertiser of November 14, 1937, relative to the importation of shoes under reciprocal trade agreements, which appears in the Appendix.]

# PREVENTION OF AND PUNISHMENT FOR LYNCHING

The PRESIDENT pro tempore. The question is on the motion of the Senator from New York [Mr. WAGNER] to proceed to the consideration of the bill (H. R. 1507) to assure to persons within the jurisdiction of every State the equal protection of the laws, and to punish the crime of lynching.

Mr. OVERTON. Mr. President, when the Senate recessed on last Friday I was addressing myself to the pending motion. I was undertaking to show that the ostensible purpose of the proposed legislation is to make a practical application of, and to carry into execution, the fourteenth amendment of the Constitution of the United States. I was undertaking to show that the bill does not attempt to effectuate its declared purpose. I was undertaking to show that there is a considerable difference between the provisions of the fourteenth amendment and the provisions of the bill; that the bill has been so framed that it applies only to officers and to counties and municipalities in Southern States, and has no practical application to officers and counties and municipalities in the other States throughout the Union.

In my remarks I had discussed the title of the bill. I now wish to institute, for the consideration of the Senate, a comparison between the provisions of the fourteenth amendment and the provisions of the bill.

The portion of the fourteenth amendment which is cited as authority for this legislation declares that-

No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws

The fourteenth amendment further provides that-

The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

Section 1 of the bill, as proposed to be amended, refers to the fourteenth amendment and declares that the bill is-

Enacted in exercise of the power of Congress to enforce, by appropriate legislation, the provisions of the fourteenth amendment of the Constitution \* \* \* and for the purpose of better assuring under said amendment equal protection to the lives and persons of citizens.

Then it declares that the due process of law contemplated and provided for by the fourteenth amendment shall be extended, not to all persons but-

To all persons charged with or suspected or convicted of any offense within the jurisdiction of the several States.

Section 2 of the bill provides that the act of violence shall be a killing or a maining of a criminal or suspected criminal, and must be perpetrated by an assemblage of at least three or more persons.

Section 2 further provides that the provisions of the bill-

Shall not be deemed to include violence occurring between members of groups of lawbreakers such as are commonly designated as gangsters or racketeers, nor violence occurring in the course of picketing or boycotting or any incident in connection with any "labor dispute" as that term is defined and use in the act of March

Section 3 of the bill provides that any peace officer who does not employ all diligence to protect or to prosecute anyone who is guilty of any maiming or of killing the criminal referred to in the bill will be guilty of a felony and shall be prosecuted in the Federal court and be amenable to a fine of \$5,000 and imprisonment for 5 years.

Section 5 of the bill imposes a financial liability upon every governmental subdivision of a State having the functions of police by reason of any lynching occurring within its territorial jurisdiction. It creates a right of action in favor of the person who has been maimed and he can go into the Federal courts and obtain judgment against the county or the municipality in a sum of not less than \$2,000 and not more than \$10,000, and in the event of his death his next of kin shall enjoy that right of action and can recover an equivalent amount.

The Attorney General is called upon to investigate any purported violation of the proposed law, and is authorized to institute action in the Federal court in behalf of any claimant, and that action can be prosecuted without the prepayment of any costs.

So, Mr. President, here is the fourteenth amendment which, according to the interpretation placed upon it by the proponents of the bill, authorizes legislation of this character. I deny that the article of the Constitution referred to authorizes the enactment of such legislation by Congress, but assuming that legislation of this character is constitutional, do the proponents of the bill undertake to enforce the article of the Constitution? The article of the Constitution provides that no person shall be deprived of life, liberty, or property without due process of law. The Constitution extends its protection to all persons. The bill undertakes to extend the protection of the Constitution only to those who are charged with or have been convicted of or are suspected of the commission of crime. If we are to enforce the due process article of the Constitution by legislation of this character, can any proponent of the bill vindicate a bill which omits from the protection of the Constitution innocent people, and extends its protection only to the criminal class? Why have they not framed the bill so that it will extend, as the Constitution contemplates that the protection shall extend, to the innocent, as well as to the guilty, to all persons under the American flag? Why do not the proponents of the bill undertake to hold the peace officers of their States criminally responsible, and the counties and municipalities financially responsible, for the preventable crime of homicide of an innocent person? Why do they not provide that any peace officer who does not exercise all diligence in the prevention of the maiming or killing of any person, or who does not exercise all diligence in the prosecution and conviction of those responsible for such maining or killing, shall be hauled before the bar of Federal justice as felons and punished as such? Am I to be told that the reason why they do not do it is that they are apprehensive of the political effect of such legislation? They are undertaking to enforce a provision of the Constitution which extends its protection to all persons, whether innocent or guilty, and they bring in a bill which extends its protection only to the criminal class.

Is not the life of an innocent man in the State of Nevada as precious, under the Constitution, as is the life of one charged with or convicted or suspected of crime in one of the Southern States? They have so worded and phrased the bill that it will have actual application only to the officers and the governmental subdivisions of Southern States, and will relieve their own officers and their own governmental subdivisions in their respective States from criminal or financial responsibility.

Mr. President, the Constitution undertakes to protect the life and liberty of a person, and within the contemplation of the Constitution it makes no difference how a person may be deprived of his life or liberty without due process of law. What difference does it make, under the provisions of the Constitution, that a man is maimed or his life is taken away without due process of law by one man instead of by an assemblage of three or more persons? Why is it that the bill undertakes to condemn maiming or homicide on the part of an assemblage of three or more people and does not undertake to condemn it when it is the act of a single individual?

The reason is obvious, to my mind. The proponents of the bill hesitate to make its provisions extend to officers who are derelict in the performance of their duties in the enforcement of this article of the Constitution within their respective States. They framed the bill so that it will have application to a situation which exists in the South. What difference does it make to a man who is killed whether he has been killed by one man or whether he has been killed by a dozen or a hundred men? What difference does it make to a man who is maimed whether he has been maimed by one man or a thousand men? If we are to enforce the article of the Constitution which declares that no person shall be deprived of his life or his liberty without due process of law, why is it that we do not undertake to enforce it in cases where a man is deprived of his life or liberty without due process of law by a single individual or by two individuals?

What is the act that is held to be a violation of the Constitution under the provisions of the bill? It is maining or putting to death any criminal or suspected criminal. The Constitution provides not only for the protection of life and liberty but also for the protection of property. It may be said by the proponents of the bill that they have so framed it and so worded it that it shall apply to lawlessness of a particular character, and that this kind of lawlessness happens to occur for the most part in the Southern States. Is lawlessness confined to the Southern States? If the proponents of the measure propose to enforce the article of the Constitution providing for the protection of life, liberty, and property, why do they not undertake to enforce by congressional action the protection of property as well as of life and of liberty? Why is it, Mr. President, that the sacred right of property is not undertaken to be protected by the bill? Can it be said that no lawless acts are committed throughout the United States against property rights? If there are, and you are undertaking to enforce the fourteenth amendment of the Constitution by legislation of this character, why do you not undertake to protect property rights?

Under the provisions of the bill men may go into a restaurant and close it up; they may go into a hotel and close it up; they may sit down, as they are doing today in Pontiac and in Akron, and close up a plant, and throw thousands of employees out of work, deprive the owner of the possession and enjoyment of his property, stop the wheels of manufacture, and do it all by lawless acts; yet the proponents of the bill do not undertake to have the strong arm of the Government reach out and cope with that situation.

Is lawlessness confined to the Southern States? Is unlawful killing confined to the Southern States? Mr. President, I venture to say, without any statistics before me, that each year more preventable homicides are committed in the State of New York, or in the State of Illinois, than there are lynchings in all of the southern States. The record shows there were 10 lynchings last year in the United States. How many, if any, of them were preventable I do not know, and I do not undertake to say; but I do know that each year more preventable homicides are committed in many different States of the Union than there are lynchings in the South.

When the proponents of the bill are undertaking to enforce a provision of the Constitution which declares that no State shall deprive anyone of his property without due process of law, I challenge them to explain why it is that not a single line, sentence, or word is to be found in this bill that protects a man's property; not a single provision that would arrest any crowd of laborers or any mob, if you please, from taking possession of any plant of any industry—aye, from killing its managers, or from destroying the plant. There is not one single line of proposed legislation in the bill to prevent such a crime from being committed. Why is it?

If you are undertaking to enforce the fourteenth amendment to the Constitution, why do you not do it? Why do you go into your offices and into your committee rooms and frame a bill that you think will apply only to officers and counties and municipalities in the Southern States, and will not deal with lawlessness committed in other States contrary to the concepts of the fourteenth amendment? There is only one answer to it, and that is the statement I made in the beginning of my remarks, that the bill is framed as an anti-South measure.

What else does the bill do? It makes peace officers responsible in certain cases. The Governor is a peace officer; is he not? Is not a Governor a peace officer, I ask the Senator from Texas [Mr. Connally]?

Mr. CONNALLY. Mr. President, in my State, and I suppose in other States, the Governor is a magistrate; and under the laws of all countries magistrates are peace officers. They are charged with the enforcement of law. They issue writs.

Mr. OVERTON. Certainly a Governor is a peace officer; he is called upon to enforce the law. The bill undertakes to make the Governors of our Southern States, the sheriffs, the deputy sheriffs, the policemen, every peace officer criminally responsible, and provides that they may be sent to the penitentiary as felons because a Federal court may determine upon the trial of a case that all diligence had not been used to prevent the maiming or killing of a criminal. Yet the bill does not undertake to hold responsible the peace officers of Illinois, or of New York, or of Indiana if any kind of law-lessness is committed that results in the deprivation of human life other than under circumstances set forth in the bill, or that results in taking a man's property away from him and throwing hundreds and thousands of laborers out of employment.

Then, what else does the bill do? It makes the counties and the municipalities financially responsible, and they have to answer in damages to the victim of the so-called mob violence. The Attorney General, on behalf of the claimant, prosecutes the action, without the prepayment of costs, or through someone that he may designate, and judgment may be rendered in the sum of \$10,000. That action is to be instituted in behalf of whom? Not in behalf of an innocent man but of a criminal or a suspected criminal. The bill undertakes to throw a halo around the brow of the criminal.

He gets his reward.

Let me illustrate what I am trying to convey by a statement of what unfortunately has frequently happened in our southland, as well as in other parts of the United States: A girl of some 16 or 18 years of age is going along the road in a rural community with her schoolbooks under her arm. Suddenly out from the bushes on the wayside there springs some brute, who grabs her, takes her to one side, despoils her, violates her chastity and the sanctity of her person, and sometimes even actually lynches her, because the grasp of the fiend is around the throat to choke her cries, and he frequently strangles her to death. What happens to him so far as the bill is concerned? If the father and the brother and friends of the girl undertake, unlawfully if you please, to take the law into their own hands and to administer punishment upon that fiend, he may go into court, if he is maimed, and obtain against the county where he committed his crime judgment in the sum of \$10,000.

What, however, becomes of the poor little innocent girl who has been violated? Does this bill undertake to protect her in any manner, shape, or form? No. The proponents of the measure leave her to her ignominy and to her shame. All they say to her is, "You can have due process of law against the violator of your person and of your sanctity; you can go before the grand jury and lay your cause of complaint before them, and go through all the degrading scenes in order that they may return a bill of indictment against your assailant; then you have to go before a crowded courtroom; you have to go before a judge and lawyers and a courtroom packed with a mixed crowd; you will have to face the demon who has degraded you, and you have to go through all the details in order to make out a technical case of crime against him." This is what they give to the girl. They would have her go through agony which would be almost as great as the agony which she endured when the crime was perpetrated against her. And what do they do with the man who has perpetrated this crime? They glorify and sanctify him; give him a right of action in the Federal court, where he may proceed to get a judgment against the counties and municipalities. He is rewarded, and the poor girl gets nothing and is left nothing but the memory of her shame. So I say, Mr. President, the purpose of this bill is not to enforce the provisions of the Constitution, but it is a bill so framed as to bring degradation upon the Southern States.

I shall not enter into a discussion of the constitutionality of the bill at the present moment. If I have occasion again to speak upon the subject, I may take advantage of the opportunity to discuss that phase of the question. I am not to be understood, however, as in any sense approving the constitutionality of this proposed legislation or the constitutionality of any similar legislation. What I have undertaken to show is that, as the Senator from Georgia IMr. George has stated, this bill is nothing more than a pious fraud, a pretense of making a practical application of the provisions of the fourteenth amendment, but it does not do so, except in certain circumstances that occur chiefly in the Southern States.

I shall not undertake to discuss the various other phases of the bill.

I shall content myself at the present moment with resting my opposition to the motion of the Senator from New York being favorably voted upon on the argument that a bill that purports to enforce the fourteenth amendment and does not do so ought not to be considered by the Senate. Not that I am in favor of any congressional action of this character, but, if we are going to have any Federal statute on the subject, there should be presented a bill that will protect the life not only of the guilty but of the innocent; not only of the criminal but of the law-abiding citizen, a bill that will protect one's life and one's liberty not only against the act of three or more but against the act of any individual; a bill that will not only undertake to protect life and liberty but will also undertake to protect property and that will, in all instances, enforce criminal responsibility upon all peace officers of the different States and financial responsibility upon their governmental subdivisions when there is a failure on the part of the officers of the law to exercise all diligence in the protection of life, liberty, and property.

Mr. ANDREWS obtained the floor.

Mr. McNARY. Mr. President, a parliamentary inquiry. The PRESIDING OFFICER (Mr. Chavez in the chair). The Senator will state it.

Mr. McNARY. What is the order of business?

The PRESIDING OFFICER. The question is on the motion of the Senator from New York [Mr. Wagner] that the Senate proceed to the consideration of House bill 1507. Mr. McNARY. What is that bill?

The PRESIDING OFFICER. The so-called antilynching bill.

Mr. O'MAHONEY. Mr. President, I suggest the absence of a quorum.

Mr. McNARY. Just a moment. I have not yielded for that purpose. I inquire again, what motion is it that is now before the Senate?

The PRESIDING OFFICER. The question before the Senate is the motion of the Senator from New York [Mr. Wagner] that the Senate proceed to the consideration of House bill 1507, the antilynching bill.

Mr. McNARY. I inquire who has the floor at this time?
The PRESIDING OFFICER. The Senator from Florida
[Mr. Andrews] has been recognized and at this time has
the floor.

The Senator from Wyoming [Mr. O'Mahoney] has suggested the absence of a quorum.

Mr. ANDREWS. I yield for the call of the roll.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

Adams	Borah	Caraway	Frazier
Andrews	Bridges	Chavez	George
Ashurst	Brown, N. H.	Clark	Gerry
Austin	Bulkley	Connally	Gibson
Bailey	Bulow	Copeland	Gillette
Bankhead	Burke	Davis	Glass
Barkley	Byrd	Dieterich	Graves
Bilbo	Byrnes	Duffy	Green
Bone	Capper	Ellender	Guffey

Hale Harrison Steiwer Thomas, Okla. Thomas, Utah Logan Lonergan Nye O'Mahoney Hatch Lundeen Overton Townsend Truman Hayden McAdoo Pepper Pittman McGill Herring Tydings Vandenberg Van Nuys Pope Radcliffe Hitchcock McKellar Johnson, Calif. McNary Johnson, Colo. Maloney Russell Schwartz Schwellenbach Miller White La Follette Moore Sheppard Shipstead Lee Lewis Murray Neely Lodge Norris Smith

Mr. LEWIS. Mr. President, I rise merely to reannounce the absence of certain Senators and the causes therefor, as stated

by me on a previous roll call.

The PRESIDING OFFICER. Eighty-five Senators have answered to their names. A quorum is present. The pending question is on the motion of the junior Senator from New York [Mr. WAGNER]. The Senator from Florida [Mr. An-DREWS] has the floor.

Mr. ANDREWS. Mr. President, it was not my understanding nor that of any other Senator that we were to meet in this extraordinary session for the consideration of any other measure than those set forth in the call of the President. We were called into extraordinary session by the President to consider in substance the following measures:

First, tax-law modification adequate to encourage productive enterprise; second, encouragement of private capital to enter the field of new housing on a large scale; third, further search for methods of checking monopolies; fourth, legislation for storage of crop surpluses and control of production when surpluses threaten to depress farm prices; fifth, immediate passage of flexible legislation for better regulation of minimum wages and maximum working hours; sixth, reorganization of the executive branch of the Government; and seventh, creation of additional regional planning agencies similar to the Tennessee Valley Authority.

However, it appears that we are now compelled to discuss whether or not we shall consider the so-called antilynching bill, which is presented to us as H. R. 1507, as proposed to be amended by the Senate Committee on the Judiciary. It is called an antilynching bill. That is a misnomer. It is not

an antilynching bill.

Mr. CONNALLY. Mr. President, will the Senator yield for a question?

The PRESIDING OFFICER. Does the Senator from Florida yield to the Senator from Texas?

Mr. ANDREWS. I yield. Mr. CONNALLY. The Senator will pardon this personal question, but may I inquire whether or not the senior Senator from Florida, now holding the floor, was for many years a judge of the Supreme Court of the State of Florida and prior to that time occupied high judicial positions?

Mr. ANDREWS. I shall answer the question. I should not have referred to this, however, if the Senator had not asked the question. My public record is not very brief. My first experience was as a teacher. I taught, among other subjects, civil government and history for 6 years while I was earning my way through college. I also studied law during the time I was teaching after I had finished college-at least after I graduated, because no one ever finishes his education. After I was admitted to the bar I was appointed judge of a criminal court of record, where I served 2 years.

Thereafter I was appointed first assistant attorney general of Florida, where I served 7 years. I was then appointed judge of the seventeenth judicial circuit court, which is the highest trial court in the State of Florida, and served in that position 7 years. Thereafter I served 3 years on the supreme court commission when that position was created in order to aid the supreme court of Florida in clearing its congested docket resulting from the Florida boom of 1925.

I have said that this bill is not an antilynching bill. If passing measures and calling them by such terse names would provide a remedy, I suggest that we pass an antirape bill; and if we could pass an antirape bill and thereby prevent rape, there would not be any cause for the introduction of this present bill.

There are two offenses for which lynching most often occurs: One is rape; the other is the assassination of a policeman or sheriff or other officer while he is in the discharge of his official duty. Those are the two prevailing offenses which bring about that feeling which no one has been able to describe and that condition which no people in the United States deplores more than the best element of citizenship south of the Potomac and the Ohio Rivers.

During the past few days there has appeared an article to which I shall refer, written by an outstanding writer, a man of long experience in the study and the analyses of legislation and policies of this Government. I refer to an article published recently in the Washington Star under the name of Mark Sullivan. This article so well expresses the situation under which we are laboring that I am constrained to read it, as I may desire to comment upon certain portions of the article before I lay it aside.

If eternal vigilance is the price of liberty, so is eternal clarity the price of understanding. And so also is understanding the path to wise action. All three of these truisms are applicable to the to wise action. All three of these truisms are applicable to the so-called antilynching bill now before Congress. Lack of understanding of the bill is widespread, is indeed almost universal. The very name by which the bill is popularly called is misleading. "Antilynching" is a convenient phrase for writers of headlines struggling for condensation against limitations of space. But this is not an antilynching bill. The bill does not make lynching any more a crime than it always has been.

Let me interpolate there that it always has been murder in the State of Florida and every other State of the Union, and is punishable either by death or by life imprisonment, or by imprisonment for a lesser term of years, depending upon the laws existing in the respective States.

The new crime created by the bill is failure of sheriffs or other local officials to be duly diligent in preventing and punishing

lynchings.

The popular misunderstanding of the bill goes further. The American Institute of Public Opinion recently conducted one of its "sampling" polls to find out whether or not the so-called anti-lynching bill is popular. The institute discovered that 72 out of every 100 persons queried favored the bill. But just what was the question which the institute put before those whom it queried? The question read: "Should Congress pass a law which would make lynching a Federal crime?" lynching a Federal crime?

I should like to interpolate there that Congress may pass a law making lynching a Federal crime where the person is transported over a State line. It may be done under the interstate-commerce clause. Under no other circumstances may it pass a law on the subject that will be binding on anybody. At the proper time, when this bill comes up for consideration on its merits, I propose to discuss its constitutionality to greater extent. At that time I shall present certain matters bearing on its constitutionality which I shall not undertake to outline at this time.

Besides, how many of the persons questioned in the poll referred to really understood the bill?

Not one out of a hundred. They never saw it, and certainly never understood it.

How many of them were familiar with just what it would do, what effect it would have on the American structure of government, on the distinction between State sovereignty and Federal sovereignty? The persons questioned by the institute must have included, one assumes, a cross section of the population as a whole, from the least informed to the best informed. If the question-naire did not reach all kinds of persons, the results of it would be by that fact misleading. But if the questionnaire did include the less well informed, its results must be based in part upon the answers of persons who have little understanding of the measure. Without knowing anything of the process by which the Institute of Public Opinion conducts its questionnaires, I should imagine that a considerable number of those who answered "yes" were merely saying, in effect, that they believed lynching to be odious.

We all agree to that. I have received telegrams and letters which purport to be copies of resolutions adopted by various societies, some of them debating societies in high schools, asking me to support the antilynching bill. It is very safe to say that few, if any, of those who adopted these resolutions ever saw the bill or knew anything about what it would mean or its disastrous effect.

Actually, what the bill does is to give a new and portentous power to the Federal Government. It would authorize the Fed-

eral Government to send a Federal official into any county or city in which a lynching has occurred, to decide whether the local, State, or county officials had practiced "all diligent efforts" in preventing or punishing the lynching. If the Federal official felt the State or county officials had not made "all diligent efforts," then the Federal Government would proceed to fine or imprison the State or county official and also to assess damages of from \$2,500 to \$10,000 against the county in which the lynching occurred.

The effort on the part of Congress to pass any law of this nature to assess damages against a county is so puerile and so foolish that it ought not to be necessary to even discuss it.

Mr. CONNALLY. Mr. President, will the Senator yield?
The PRESIDING OFFICER. Does the Senator from
Florida yield to the Senator from Texas?

Mr. ANDREWS. I yield.

Mr. CONNALLY. I should like to ask the Senator a question. If the Federal Government, under the so-called power of the fourteenth amendment, may go into a State and say to a prosecuting officer or a sheriff whether or not he has performed his State duty under the laws of the State, why might not the Federal Government also go in an supervise the State courts as to every kind of litigation? Why might it not go in under the fourteenth amendment, which covers property as well, and reexamine every decision of every court in every State, and say, "Why, here: you did not try this case right. You did not accord this man the equal protection of the laws. The defendant won in this case. The defendant should have won."

Why is it not just as logical and just as sound to say that the Federal Government may go in and supervise every judge and every trial in a State court of law, whether it be civil or criminal, as to say that it may go in and supervise the action of a State officer in a criminal case?

Mr. ANDREWS. There can be no question whatsoever that this is an assault on State rights in an effort to take away from the States the right to try those charged with the commission of crimes within the boundaries of those States. If that can be done in this instance, there is nothing whatsoever to prevent the enactment of a Federal law to punish a citizen of a State for breaking and entering, or to punish for larceny; and I suppose a bill directed to the latter purpose would be called an antilarceny bill. We are all opposed to larceny, but no one yet has conceived the idea or undertaken to enforce such an idea that crime can be prevented by merely passing a law which would punish for its commission in one way or another. It only deters crime.

Mr. CONNALLY. Mr. President, will the Senator yield to me to suggest the absence of a quorum?

Mr. ANDREWS. I yield.

Mr. CONNALLY. I suggest the absence of a quorum. The Senator from Florida is making a very able address, and I think we ought to have a quorum present.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

Adams	Byrnes	Green	Neely
Andrews	Caraway	Harrison	O'Mahoney
Austin	Chavez	Hayden	Overton
Bailey	Clark	Johnson, Colo.	Radcliffe
Barkley	Connally	King	Russell
Bilbo	Davis	La Follette	Schwartz
Bone	Duffy	Lee	Sheppard
Borah	Ellender	Lewis	Thomas, Utah
Bridges	Frazier	Lodge	Townsend
Brown, N. H.	George	McAdoo	Truman
Bulow	Gibson	McGill	Tydings
Burke	Glass	McKellar	Vandenberg
Byrd	Graves	Maloney	White

The PRESIDING OFFICER (Mr. Truman in the chair). Fifty-two Senators having answered to their names, a quorum is present.

Mr. CONNALLY. Mr. President, I make the point of order that there are not 52 Senators in the Chamber, and I ask the Chair to count those present.

The PRESIDING OFFICER. The Chair will state to the Senator from Texas that 52 Senators answered to their

Mr. CONNALLY. They did, it is true.

The PRESIDING OFFICER. The Chair rules that a quorum is present.

Mr. CONNALLY. I rise to a question of privilege of the Senate. One of the fundamental privileges of the Senate is, under the Constitution, not by rule of the Senate, that there must be a quorum present. That does not mean a quorum down in the dining room, that does not mean a quorum down at a picture show, that does not mean a quorum over in the Office Building; it means a quorum here, on the floor of the Senate.

It does not mean a quorum of Senators who are out in the cloakroom talking to constituents and jobholders. I make the point of no quorum; that at the present time there are not 52 Members on the Senate floor. One of the duties of the Presiding Officer is to follow the Constitution of the United States. The Constitution is superior to any little two-bit rule that the Senate adopts concerning a roll call. The rules of the Senate must give way to the Constitution of the United States, just as all laws of the Federal Government, or the States, or any subdivisions thereof must give way.

Mr. President, there are not 52 Senators in the Chamber. The PRESIDING OFFICER. The Chair will say to the Senator from Texas that 52 Senators have answered to their names.

Mr. CONNALLY. I understand that.

The PRESIDING OFFICER. And unless a point of no quorum is made by the Senator from Texas there is nothing to be done about it.

Mr. CONNALLY. I make the point of no quorum.

Mr. CLARK. Mr. President, I make the point of order that a quorum has just been ascertained on a roll call and, therefore, the point of no quorum is not in order.

Mr. CONNALLY. Mr. President, I want to discuss that question. I wish to read from the Constitution of the United States.

The PRESIDING OFFICER. The Senator from Florida [Mr. Andrews] has the floor.

Mr. CONNALLY. Mr. President, I rise to a point of privilege of the Senate. I appeal to the Chair that there is no higher question.

The PRESIDING OFFICER. Unless the Senator from Florida yields, the Senator from Texas has no standing on the floor. Does the Senator from Florida yield to the Senator from Texas?

Mr. CONNALLY. I do not want to embarrass the Senator from Florida; but if the Chair does not recognize a question of privilege, I do not see what the Chair is for.

Mr. BAILEY. Mr. President, I ask whether the Senator from Florida will yield simply for the purpose of putting a matter into the RECORD.

The PRESIDING OFFICER. Does the Senator from Florida yield to the Senator from North Carolina?

Mr. ANDREWS. I yield to the Senator from North Carolina for the purpose of placing something in the Record.

Mr. BAILEY. I ask unanimous consent to have printed in the Record an article by Gen. Hugh S. Johnson, entitled "One Man's Opinion," published in the Washington Daily News of today.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CLARK. Mr. President, will the Senator from Florida yield?

Mr. CONNALLY. Mr. President, I make the point of no quorum. The Senate has transacted business since the last roll call by permitting the printing in the Record of an article by Gen. Hugh S. Johnson. I invoke the point of no quorum.

The PRESIDING OFFICER. Does the Senator from Florida yield for that purpose?

Mr. BRIDGES. Mr. President, will the Senator yield?

Mr. ANDREWS. I yield to the Senator from New Hampshire for the purpose of putting something into the RECORD.

Mr. CONNALLY. I ask the Senator to withhold his request for the moment. I invoke the rule that there is no

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quorum present. Does the Senator yield for the purpose of permitting the Senator from Texas to invoke the rule of no quorum? The Senator will not lose the floor.

Mr. ANDREWS. I decline to yield. Mr. CONNALLY. Mr. President, the Senator does not want a quorum.

Mr. BRIDGES. Mr. President, will the Senator yield?

The PRESIDING OFFICER. Does the Senator from Florida yield to the Senator from New Hampshire.

Mr. ANDREWS. I yield so the Senator may ask to have

something placed in the RECORD.

Mr. BRIDGES. I ask unanimous consent to have inserted in the RECORD two articles printed in the New York Herald Tribune, one headed "Four More Party Heads Join Fight Against Third Term for Roosevelt," under date of November 13, 1937, and the other headed "Six Roosevelt Party Chiefs Veto Third Term," under date of October 31, 1937.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CLARK. Mr. President, will the Senator yield?

Mr. ANDREWS. I yield for request for insertion of matter in the RECORD.

Mr. CLARK. I ask unanimous consent to have printed in the RECORD an editorial printed in the New York World-Telegram of November 20, 1937, headed "Why Not Legislate?"

The PRESIDING OFFICER. Without objection, it is so

Mr. CONNALLY. Mr. President-

The PRESIDING OFFICER. Does the Senator from Florida yield to the Senator from Texas?

Mr. CONNALLY. I ask for decision on a question of privilege, which takes any Senator off the floor. That question of privilege is that there is no quorum in the Senate. I invoke the Constitution of the United States, if it has any appeal here.

The PRESIDING OFFICER (Mr. TRUMAN in the chair). The following is the ruling which was made in the last session of the Senate by the President pro tempore of the Senate, on July 8, 1937:

The Chair must repeat that it is obvious that parliamentary procedure could not go on if the Senate had imposed upon it methods of procedure under which questions of personal privilege such as have just been raised were indulged in. Senators cannot rise for a question of personal privilege when a Senator is speaking, without his personal consent.

Does the Senator from Florida yield to the Senator from Texas?

Mr. CONNALLY. Mr. President, I am not asking the Senator to yield for the purpose of presenting a question of personal privilege. I ask for a decision on the question of the rule of the Senate.

The PRESIDING OFFICER. Does the Senator from Florida yield to the Senator from Texas for that purpose?

Mr. ANDREWS. I do not yield.

The PRESIDING OFFICER. The Senator from Florida declines to yield.

Mr. CONNALLY. I appeal from the ruling of the Chair. The PRESIDING OFFICER. The question is, Shall the ruling of the Chair stand as the judgment of the Senate? As many as-

Mr. CONNALLY. Mr. President, I have a right to debate that question, and I am going to debate it.

The PRESIDING OFFICER. It is debatable.

Mr. CLARK. I move to lay the appeal on the table.

Mr. CONNALLY. I do not yield to the Senator on that question. I have the floor on the question of an appeal from the Chair, and the Chair has recognized the Senator from Texas.

Mr. CLARK. It is always in order to move to lay an appeal on the table.

Mr. CONNALLY. Mr. President, I do not yield. Mr. CLARK. I did not ask the Senator to yield.

Mr. CONNALLY. I do not yield. I have the floor, and I am going to see whether the Chair is consistent or not. The Chair has made a ruling. I have the floor and I am going to speak.

The PRESIDING OFFICER. All right.

Mr. CONNALLY. I invoke as against the Senator from Missouri [Mr. CLARK] the Constitution of the United States, which says the Senate must have a quorum present. I know it is not a very popular document in some quarters, but it is

Mr. ANDREWS. Mr. President, I yield on condition that I do not lose the floor.

Mr. CLARK. Mr. President, I give notice that I shall ask the Chair to enforce the rule as to yielding.

Mr. CONNALLY. Mr. President, I have the floor. If the Senator from Missouri desires to speak he must obtain my

Mr. CLARK. I make a point of order that that is not a discussion of the appeal that the Senator from Texas has made, and the appeal is open to debate within narrow limits.

The PRESIDING OFFICER. The parliamentary clerk informs me that the matter does not have to be germane to the question.

Mr. CONNALLY. I have the right to proceed. That is a very important decision which was just made by the junior Senator from Missouri [Mr. TRUMAN], that the senior Senator from Missouri [Mr. Clark] is not germane. [Laughter.]

Here is section 5 of article I of the Constitution of the United States which I commend to the Chair and to the parliamentary clerk and to others who might be interested in knowing that there is a Constitution of the United States. and also to the Senator from Missouri [Mr. CLARK]:

Each House shall be the judge of the elections, returns, and qualifications of its own Members, and a majority of each shall consti-tute a quorum to do business; but a smaller number may adjourn from day to day and may be authorized to compel the attendance of absent Members, in such manner and under such penalties as each House may provide.

In discussing this appeal I want to call the attention of Senators and of the Chair to the fact that since the last roll call the Senate has transacted business. It was necessary to get the consent of the Senate before the speech or the editorial or the article by Gen. Hugh S. Johnson was put into the RECORD. That is business. Since that roll call and since that theoretical and suppositious quorum was ascertained the Senate has transacted further business.

The Senator from Texas is interested in maintaining the rules of this body. It is much more important that the rules of this body and that the Constitution be observed than that this little bill that you are talking about be called up. either now or 2 weeks from now. The Senate Committee on Agriculture and Forestry has just reported the farm bill. By the solemn pledge of the Senate it is the first item that we shall take up. It is the first item on the President's program. The Senate ought now to be in recess so that Members could examine the measure and examine the committee report, which I hope will be taken up in the Senate tomorrow, instead of spending their time over tweedledee and tweedledum, as to whether or not you will call the roll one minute but cannot call it later on, under the invocation of these little two-bit rules that someone carries around in his pocket, thus obscuring the view of the Constitution and placing the welfare of the country behind a little twobit rule. Some Senators get the Senate rule so close to their eyes that they cannot see the Constitution or the welfare of the country.

Mr. CLARK. Does the Senator know whether the farm bill from the Committee on Agriculture and Forestry has been printed yet and, therefore, whether it will be available to Members of the Senate?

Mr. CONNALLY. I understand the committeee has a print.

Mr. CLARK. I understand it has not. I asked a leading member of the committee, and he said it is not available. Therefore, if the Senate were in recess it would be impossible for the Members of the Senate to study it.

Mr. CONNALLY. I will answer by saying that a newspaperman said he had a copy of the bill. If newspapermen can get copies of it I suppose the Senate can get copies of it. [Laughter.] They ought to be able to get copies.

The Senator from Missouri is very much concerned with getting a copy of the bill. If he should get a copy of that bill, and read it, and study it a little bit, instead of talking about the almanac, or a little rule, the country would be a good deal better off, and I believe the constituents of the Senator from Missouri would be better off.

Mr. President, I am interested in maintaining the rules of the Senate, and the Constitution says that the Senate cannot move a peg, it cannot do a thing, unless it has a quorum present. There are those who say that because a Senator sticks his head in that door and says "Present," and then runs back to the dining room, or down to his office, that he is technically present in the Senate. He is not. When the Constitution provided for a quorum in the Senate it meant that Senator's bodies should be here physically present in the Chamber. It did not mean that their names could be sent in by a page and put on that roll. It meant that their brains were supposed to be here, their intellects, their character, their patriotism, their physical bodily persons should be in this Chamber, and everyone knows that they are not

I invoke the rule that there is not a quorum present, and that business has been transacted since the last quorum, and, that, therefore, I have a right now to demand that these Senators be brought in here to hear the debate. Oh, they are anxious to hear the debate, those who are trying to put over this bill! Where are they? Where is the Senator from New York [Mr. Wagner]? He is not on the Senate floor. He cannot stand the gaff. He dares not listen to the Senator from Florida tear this bill into shreds. The Senator from New York is supposed to be a lawyer. He is not here. He dares not listen to the law. He dares not hear the reading of Supreme Court decisions. He is out somewhere in the lobby talking to some fellow.

I have noticed the Chair conferring with the Parliamentarian. I do not want to take up any more time on this matter, but I make the point of order-and I want the RECORD to show it-that since the last roll call and since the theoretical and supposititious discovery of a quorum, the Senate has transacted business by giving its consent to the publication in the RECORD of a speech by Gen. Hugh S. Johnson against this bill. Therefore, predicated on that, I now make the point of order that there is no quorum present.

Mr. CLARK. Mr. President-

The PRESIDING OFFICER. The Chair rules that a quorum cannot be called for unless the Senator who has the floor yields for that purpose. The Senator from Texas rose to a point of personal privilege.

Mr. CONNALLY. No; I beg the Chair's pardon; I did not rise to a question of personal privilege.

The PRESIDING OFFICER. The Chair stated the question to be whether or not the Senate would sustain the ruling of the Chair, and that is now the question before the Senate for discussion and determination.

Mr. CONNALLY. I did not rise to a question of personal privilege, but to a question of the privileges of the Senate. The PRESIDING OFFICER. That is how the Senator got

the floor, anyway.

Mr. CONNALLY. Not on a question of personal privilege; I said "privileges of the Senate." The privileges that affect

this body as a whole are above any personal privilege.

The PRESIDING OFFICER. The only point is whether the Senator from Florida yields for the purpose of the Senator from Texas asking for a quorum.

Mr. CONNALLY. Not at all.

Mr. CLARK. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it. Mr. CLARK. The Senator from Texas has been addressing the Senate for the last 15 minutes on an appeal from the decision of the Chair. Is not that now the pending question before the Senate?

The PRESIDING OFFICER. That is the pending question before the Senate. The question is, Will the Senate sustain the ruling of the Chair? [Putting the question.]

Mr. CONNALLY. I make the point there is no quorum present on that question being put, and ask for a call of the

The PRESIDING OFFICER. Does the Senator from Flor-

ida yield for that purpose?

Mr. CONNALLY. How can the Chair do that when the Senate has just voted on the question? I make the point that on that vote there is not a quorum present. What has the Senator from Florida got to do with that?

The PRESIDING OFFICER. The Senator from Florida has the floor.

Mr. CONNALLY. It is a new kind of ruling here that the Chair does not recognize that we have a right to a quorum on a vote.

The PRESIDING OFFICER. The question is, Will the Senate sustain the ruling of the Chair? [Putting the question.] The ayes seem to have it; the ayes have it, and the decision of the Chair is sustained.

The Senator from Florida will proceed.

Mr. ANDREWS. Mr. President, I resume, quoting from the article from which I was reading when I was interrupted:

This immense extension of Federal jurisdiction, this subjection of local government to government from Washington, is proposed at a fateful time. It is proposed \* \* \* to extend their power to a point at which, in the judgment of thoughtful persons, the States would become little more than mere obsolete names on the

There is another path to understanding of the "antilynching" bill, the political path. From the Civil War on there has been a considerable Negro population in such cities as Cincinnati, Indianapolis, and St. Louis. For nearly 70 years these colored persons voted the Republican ticket. Since the three cities were in private States. sons voted the Republican ticket. Since the three cities were in pivotal States, States more or less evenly divided between Republicans and Democrats, this vote was extremely important to the Republicans. It has been said, and I suspect statistics might bear it out, that if every colored person in Ohio, Indiana, and Missouri had always voted the Democratic ticket, the Republicans would have lost those States in many Presidential elections and consequently lost the Presidential elections.

# GATHERED IN LARGE CITIES

After the Great War considerable Negro populations gathered in other northern cities—New York, Detroit, Chicago. Here, again, until 1932, these groups commonly voted Republican.

So long as the colored persons voted Republican, the Republican Party cultivated them by proposing in Congress measures favorable to the Negroes everywhere. I do not recall whether the Republicans proposed antilynching bills like the present one. But the Republicans frequently proposed a measure which would have meant a similar invasion of States' rights by the Federal Government. The Republicans frequently proposed a so-called force bill under which Federal officials and Federal soldiers would have been present at the polls in Southern States to exercise coercion upon State and county officials conducting the local elections. officials conducting the local elections.

officials conducting the local elections.

Since 1932 the Negro colonies in northern cities have prevailingly voted Democratic. So now it is the Democrats who father antilynching bills. The one passed by the House early this year was sponsored by a Democrat from New York City, Representative Gavagan. The present bill in the Senate is fathered by a Democratic Senator from New York, Mr. Wagner, and a Democratic Senator from Indiana, Mr. Van Nuys. An antilynching bill that was before the Senate some 4 years ago was fathered by a Democratic Senator from Colorado, Mr. Costigan.

In the present Congress both Republicans and Democrats from the North will compete in their eagerness to support the anti-

the North will compete in their eagerness to support the anti-lynching bill—the Democrats because they have the Negro vote and hope to keep it, the Republicans because they hope to get it back. But there is one Republican Senator who will not support the

And that is the senior Senator from Idaho [Mr. Borah]. Mr. President, any law that is passed upon this subject must finally be measured by the gage of the Constitution in a Federal court.

The question involved has been before us for three-quarters of a century. It requires solution. I am one of those who believe that the States are solving it. They are solving it within their sovereign power. We have absolute evidence of that fact. The number of lynchings in the South has decreased by a tremendous percentage in the last 40 years. I now refer the Senate to a statement by Judge Sumners, a Representative from the State of Texas, made in the House of Representatives in debating this subject.

Are we making progress which justifies the request that a bill of this nature be passed?

Here are the lynchings indicated: From 1882 to 1892, inclusive, there was an average of 1 lynching for each 380,000 people.

The average for the next 11 years, 1893 to 1903, inclusive, was 1 lynching for each 550,000 people.

In the next 11 years, 1904 to 1914, inclusive, there was 1 lynching for each 1,300,000 population.

In the next period, from 1915 to 1925, there was 1 lynching for each 2.000,000 population.

In the next period, 1926 to 1936, there was 1 for each 7,400,000 population.

During last year there was 1 lynching for each 15,000,000

This problem is being solved under State authority and by the only people who have the right under the Constitution to solve it. They have done a wonderful job under the circumstances. In the South occurred the first instance in history where the founders of a democracy, belonging to the highest ruling race, subjugated their brothers who helped to establish the democracy and put their former slaves over their brothers who were the only ones that had the ability, the training, and the experience to rule.

I regret that in this discussion I feel impelled to refer to some of my own experiences. While I was assistant attorney general of Florida a Negro was lynched or killed in one of the counties of Florida. One of the men who now occupies a seat on the supreme court of Florida was then State's attorney in that circuit. He prosecuted and secured convictions of two men for that act. It became my duty as assistant attorney general to uphold that conviction in the supreme court of my State. The supreme court of Florida sustained the conviction and the men were sentenced for life to the State's prison. So far as I have been advised they are still there, where they ought to be.

I would rather not discuss the conditions which brought about this terrible crime. It is not the first period in history in which it occurred. It will be recalled that it has always been on the frontiers, on the frontiers of the United States that similar crimes were committed. We have only to read the history of the West to learn that lynchings were often the rule in the far West in the frontier days. Men were taken away from sheriffs, from constables, from policemen, and lynched for a much less offense, such as cattle rustling.

Soon after the Civil War, in the county in which I was born—and I have this from the lips of those who lived at that time and knew the facts—very few men returned from the Civil War to their farms. Those who did, found the farms grown up in briers, in brush, in young trees. It was during that period that the South was made a military district. My own father with others went to the polls to vote between Negroes armed and wearing United States uniforms. During that time the Negroes had been promised 40 acres of land and a mule. They actually believed that it had been promised by the Federal Government.

On one occasion when a widow and her daughter were alone, one of these Negro officers undertook to demonstrate his new official power which had recently been conferred upon him. He approached the daughter—made an orphan by the war—while she was going alone to the post office and committed that offense which is so reprehensible and repugnant to every rational human being, including the colored race. That occurred in a community where the whites had not yet returned from the battle front. An effort was made to try the Negro for committing this offense, but the offender was allowed to leave that part of the State.

A similar like offense occurred. The second offender did not succeed in escaping. A lynching took place, deplorable as we know it must have been. Similar instances occurred in many places in the Southern States. Such incidents were a hundred times more frequent in those days than now. As I have just shown by statistics taken from the record, that crime has been reduced by a tremendous percentage, and the hope of every true southerner and the hope of all the people of the United States, including all our good colored people, is that we have had our last lynching.

One of the greatest problems since the advent of history has been the living together of two vastly different races under the same government under equal conditions. Similar situations had arisen in many countries before such a condition developed in America. That is one of the problems in Germany now, and no doubt, later will be a question in Italy between races not so far apart in racial characteristics as those which inhabit the United States.

Mr. President, the Constitution of the United States provides in section 1, article I, that—

All legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

I am inviting attention to that provision because it confines "all legislative powers to those 'herein granted,' shall be vested in a Congress of the United States." Similar language is not found in section 1, article II, which begins:

The executive power shall be vested in a President of the United States of America.

It does not appear in the third article relating to judicial departments of the Government.

Section 1, article III, reads:

The judicial power of the United States shall be vested in one Supreme Court and in such inferior courts as the Congress may from time to time ordain or establish.

In other words, the power of the courts is not limited except to matters which inherently belong to the courts. The executive power is not limited except to those matters which belong to the Executive. But the legislative powers are confined to "those herein granted." In the language of the Constitution itself are enumerated the powers which Congress may exercise. One will look in vain to find any provision in the Constitution which in language or by implication authorizes the Congress to enact a law defining and punishing crime committed wholly within the State.

I desire now to refer more particularly to something that is not usually discussed when people refer to the relations which exist between the white and the colored races south of the Potomac and the Ohio.

While the men of the South were away in the Civil War, they left the mothers and the children in the hands and at the mercy of the colored slaves with whom they had been raised. There is nothing more beautiful in history than the relation which then existed, and to a large extent now exists, between the old black mammy and her charges. During that long conflict the old black mammy, through the many dreadful nights placed her cot between the door and the wife and the little children whom she guarded, and no enemy not even a Federal soldier dared approach her charges to harm them without first passing over her dead body. Do you think for one moment that prejudice exists among the southern people against the colored race? It needs no refutation as it has no basis in fact.

There is a wealth of concrete examples showing that that is not possible. The rapist is abhored by the whites and colored people alike—so is lynching.

I have tried thousands of cases as judge. Many are the times I recall that if a native southern attorney was defending a Negro he will demand a jury of southern men if it can possibly be impaneled. I have known attorneys to challenge every juryman who came from north of the Ohio River. In my home city, where I presided for 7 years in the trial of criminal offenses, and especially those of murder-and I have seen many colored men defended by very able lawyers-I have heard the question asked many times-yes, a thousand times, "Will you please state when you came to Florida? What is the State of your nativity?" If the juror said that he came from some State north of the Ohio River he was not retained on the jury if there was any way to get him off. There were many preemptory challenges and challenges for cause by defendants' attorneys, who would exhaust all of them to get sympathetic men on the jury. Why? I will tell you. There are none who understand the colored people, no persons who understand their shortcomings and can more justly sympa-

thize with his humble position in life better than the men who have played with him as boys and worked side by side with

Mr. KING. Mr. President, will the Senator yield?

Mr. ANDREWS. I yield.

Mr. KING. Perhaps I did not correctly follow the Senator. I apprehend that the challenges, either for cause or peremptory challenges, were made by the defendant's counsel, and not by the representatives of the State.

Mr. ANDREWS. By the defendant's counsel. I thank the Senator.

Mr. KING. That is to say, attorneys in the South defending colored men preferred southern men as jurors rather than northern men as jurors, because, as I understand the Senator, they realized that the southern men appreciated the shortcomings as well as the virtues of the Negroes far better than the northern men did.

Mr. ANDREWS. They certainly understand the Negro, and they will undertake to apply the remedy of justice in the cause according to his position and ability to under-

About 10 years ago I was asked to sit as a guest of a judge in one of the Northern States. He asked me to comment on the way in which they disposed of cases, the fines and the terms of imprisonment which he imposed. It was during prohibition days. I sat with the judge, and one defendant after another passed before the bench. The indictment was read; it was plea day for those who were being prosecuted and had signified their intention to enter pleas of guilty, so that the cases might be disposed of without trial. One defendant after another passed in front of the judge. For a plea of guilty on an indictment for the sale of liquor, he would say, "\$350 and costs, or 60 days in jail." Another one, a well-dressed man who looked as if he had seen better days was fined the same amount and days. One after another passed in front of the judge.

One defendant, a woman, drew a sentence of \$150 costs or 30 days in jail. Finally there came along an old Negro, who must have been 70 or 75 years of age. He held up his trembling hand and entered a plea of guilty, and made his statement, which was something like this: "It is true, Mr. Judge, your honor, that I did have a quart of moonshine liquor in my cabin. It has been 3 months since I had any work to do. On Saturday night another colored man offered me \$3.50 for the liquor, and I let him have it. I let him have it to get something to eat."

He was fined \$100 or 60 days in jail; and I saw the tears roll down the poor old man's cheeks as he passed on and shook his head as if to say, "There is no way out." I felt the moisture flow swiftly into my own eyes.

About the same fines and imprisonment were meted out to all of them regardless of color, and at the adjournment the judge asked me what I thought. He said he would like to have my reaction to what had just occurred.

I said, "Do you want me to speak plainly?" He said he did. I said, "The man who came before you well dressed, with a diamond stud in his shirt, and rather boldly pleaded guilty, had in his pocket the money to pay the fine. You were meting out punishment for violation of a law. I would have given him enough to make him feel it-to make him know that he had committed a crime." "What would you have given him?" I said, "I do not know exactly, but down in my State he probably would have received \$500 or \$1,000 fine, and in default thereof, have been sentenced to serve 6 months in jail." "What about the old colored man who came along?" I said, "Well, I must tell you, if you do not mind, that justice is always tempered with mercy when a southern man sits on a bench and has to pass sentence on a poor colored man. That is universal." The judge said, "What would you have done with the old Negro?" I said, "I possibly would have fined him a dollar and costs and suspended the sentence, and had the sheriff hand him a dollar to get him something to eat."

I could tell you many, many instances of that kind. I am not speaking about some theory of justice. I am speaking from experience.

There can be no question that the offense of lynching is as much deplored in the southern States as in any other State. It is likewise true that the best citizens of the Southern States do all they possibly can to prevent lynchings. When a mob gathers they move stealthily. They do not take a Sunday School class along with them. Those who would most willingly use their efforts to prevent such an outrage usually know nothing about it until it is over. Some have said that the spirit of lynching has been carried on very largely by that element of the Nordic race in the South which some have preferred to refer to in some of the books and histories as "white trash." If I understand what the writers and novelists mean by "white trash", they refer to those persons who are not the descendants of slaveowners in the South, and whose abilities therefore had to compete with the Negro after the war in the realm of unskilled labor.

That is, they become competitors for the jobs which usually requires unskilled labor.

A search of history will not reveal a case where two extremely dissimilar races have lived together in the same township, the same town, the same county, the same State, under political equality, and have gotten along as well together as have the Anglo-Saxon races and the colored people in the South. It is true that wherever a member of the Nordic race has gone into the Tropics or the warmer climates he has always carried as his companion the colored man. Many of the great railroads of the South and West constructed in the last 75 years are the result of the labor of the colored race.

Sometime ago when we were discussing the court bill in this Senate reference was frequently made to the fact that the Supreme Court had usurped a right which was never granted in declaring acts of Congress invalid and unconstitutional. The fact that the Court bill was disposed of in the manner in which it was, made it unnecessary to show that the courts of this country have the power to declare acts of Congress unconstitutional. It has often been pointed out that the courts of England had never declared acts of Parliament unconstitutional, that the laws of the United States, especially the common law, were derived from the English system and the question was asked, Why it happened to be within the power of the courts of the United States to declare acts of Congress unconstitutional when the courts of England could not declare acts of Parliament unconstitutional?

The fact is that Parliament was a court long before it was a legislative body. All power in England is vested in Parliament. As to all legislation there is no superior power. In the United States our Constitution declares that the Constitution and the laws passed in accordance therewith to be the supreme law of the land. If Congress attempts to violate the freedom of speech, or the freedom of the press, or to deprive one of the right of trial by jury, then there is no need even for a court to say in solemn words that such an act is unconstitutional. But it so happens that there is no other body in this country to pass upon the legality of an act of Congress except the courts, and that is their province. An act of Congress would be the supreme law if the courts did not have the power to declare unauthorized acts of Congress unconstitutional. That is elementary.

I have been amused at discussions I have seen in some of our periodicals in regard to that subject.

If the bill we are discussing should be enacted it would not be a law, it would not be constitutional, because the Congress would be usurping power which was never granted to it.

As in the case of children who come into the world, a neat little dress was prepared for the advent; it is in the first section. In other words, its justification is attempted to be founded in the fourteenth amendment. By the way, the fourteenth amendment was so obnoxious to some of the Northern States that the State of Ohio and the State of New Jersey, after they had ratified it, undertook the next year to reconsider their ratifications and voted to rescind their former ratification. Yet when the question was presented to the Secretary of State it was ruled that the amendment once having been ratified they could not rescind their action. That was a new rule in this country; but it happened right after the Civil War when a good many rules which we did not understand were enunciated. The fourteenth amendment never properly became a part of the Constitution of the United States, and that may be said also with regard to the thirteenth amendment.

Of course, sometimes a dress is beautifully prepared for the advent of an heir, so it must have been that thought which the drafters of this proposed law had in mind when they provided in section 1:

That the provisions of this act are enacted in exercise of the power of Congress to enforce, by appropriate legislation, the provisions of the fourteenth amendment of the Constitution of the United States and for the purpose of better assuring under said amendment equal protection to the lives and persons of citizens and due process of law to all persons charged with or suspected or convicted of any offense within the jurisdiction of the several States. A State shall be deemed to have denied to any victim or victims of lynching equal protection and due process of law whenever that State or any legally competent governmental subdivision thereof shall have failed, neglected, or refused to employ the lawful means at its disposal for the protection of that person or those persons against lynching or against seizure and abduction followed by lynching.

Those who drafted the bill undertook to state the purpose of the proposed law. They painted a beautiful picture. It is a beautiful dress, but here is a part of the child on which the dress is placed. Section 2 provides:

SEC. 2. Any assemblage of three or more persons which shall exercise or attempt to exercise by physical violence and without authority of law any power of correction or punishment over any citizen or citizens or other person or persons in the custody of any peace officer or suspected of, charged with, or convicted of the commission of any offense, with the purpose or consequence of preventing the apprehension or trial or punishment by law of such citizen or citizens, person or persons, shall constitute a "mob" within the meaning of this act. Any such violence by a mob which results in the death or maiming of the victim or victims thereof shall constitute "lynching" within the meaning of this act: Provided, however, That "lynching" shall not be deemed to include violence occurring between members of groups of lawbreakers such as are commonly designated as gangsters or racketeers, nor violence occurring during the course of picketing or boycotting or any incident in connection with any "labor dispute" as that term is defined and used in the act of March 23, 1932 (47 Stat. 70).

I am wondering why it is that this bill undertakes to exempt the worst character of criminals known to the civilized world at this time—the gangsters.

A day or two ago we saw a placard over there on the wall of the Senate. It was a very gruesome picture. It was repulsive to the instincts of everyone on the Senate floor or to any others who may have seen it. I was looking to the Senator from Mississippi to invoke section 3 of rule XIX, I believe it is, to exclude it from the floor.

Mr. President, we might paint another picture. I am wondering how that picture would look of the young girl of 16 who had been on her way to school located about a mile from her home. Her path led through a part of the pine forest being operated for turpentine.

She did not arrive at school that morning. The teacher thought little about it, because her parents lived a mile away from the school. The little girl did not return to her home that afternoon at 5 o'clock, the accustomed time. The alarm was given and a search was made, and after 2 days' search the cold, bloody body of that beautiful young girl was found under a log of wood in the creek a few hundred yards from where the offense occurred. It is all right to say what you might do, under such circumstances, but if that had been the daughter of some one of those we hear speak on the Senate floor on this question I am wondering what he would do if he were to see and face the brutes who undertook to and who did despoil that child and destroy her. I wonder how that picture would look over there on the wall?

I was told that before these three men who joined in that offense passed into eternity, they admitted that each one of them outraged that child before she died. May God help us!

Mr. President, I wonder if those who would undertake to place a fine of \$10,000, as is provided in this bill, on the people of the county where such an offense occurs because the sheriff, or the deputy sheriff, or the Governor was not able to restrain a mob of two or three hundred persons—I wonder if they feel that the wife of a rapist should receive a \$10,000 reward. That is what the bill provides. It also places a fine and imprisonment upon the sheriff, or the deputy sheriff, or the police officer, if he "shall have failed, neglected, or refused to employ the lawful means" to prevent it.

It is provided in the bill that a case of that nature would be tried in the Federal court. If that offense, when committed wholly within a county, and within a State, is to be tried in the Federal court, it will be the first time a State crime was ever tried in the Federal court.

Not long ago Congress passed what is known as the kidnaping bill; but they did not call that an "antikidnaping" bill. I do not know why; but that bill reads in part as follows:

Whoever shall knowingly transport or cause to be transported, or aid or abet in transporting, in interstate or foreign commerce, any person who shall have been unlawfully seized, confined, inveigled, decoyed, kidnaped, abducted, or carried away by any means whatsoever and held for ransom or reward or otherwise, except in the case of a minor by a parent thereof, shall upon conviction, be punished, first, by death if the verdict of the jury shall so recommend, provided that the sentence of death shall not be imposed by the court if, prior to its imposition, the kidnaped person has been liberated unharmed.

And so forth.

Senators will notice that the measure provides that the act relates to "interstate commerce." That law is unquestionably constitutional and has so been declared by the courts. It is an interstate crime and not an intrastate crime.

Let us note the provisions with respect to some other offenses. The offense of larceny, committed wholly within a county, is punishable under the State law, and the States have never granted the power to enforce that law to the Federal courts. I read the law with respect to interstate larceny:

Whoever shall transport or cause to be transported in interstate or foreign commerce any goods, wares, or merchandise, securities, or money of the value of \$5,000 or more thereof stolen or taken feloniously by fraud or intent to steal or purloin knowing the same to have been so stolen or taken, shall be punished by a fine not exceeding \$10,000 or by imprisonment for not more than 10 years, or both.

The Federal courts acquire jurisdiction of such a case only because the goods are carried or transported in interstate commerce from one State to another.

The same is true with respect to many laws. I raised the point today that if this bill undertook to punish lynching when the person so lynched was carried across a State line the measure would be constitutional. Some persons may say, "Well, we can go ahead and pass this law; and if it is not constitutional, why, the courts will so declare and will settle the question." But it happened that when Senators held up their hands and were sworn in as Members of the Senate they took a sacred oath to uphold the Constitution of the United States; and if that is true, one violates his oath under the Constitution of the United States if he votes for a law which he knows is not constitutional, and a violation of one part of his oath is just as reprehensible as the violation of another part of his oath.

Mr. KING. Mr. President, will the Senator yield? Mr. ANDREWS. I yield.

Mr. KING. Does not the Senator recall—I am not quite definite, although I have a rather imperfect recollection of the facts—that Thomas Jefferson once stated that it was the duty of Members of the Congress not to pass any law the validity of which from a constitutional standpoint was not satisfactory to the Members? That is to say, if they had any doubt as to its validity it was their duty to vote against it.

Mr. ANDREWS. That is correct.

Mr. KING. The Senator will recall that Mr. Cooley in his admirable work, if not in his work on Constitutional Limitations, in one of his articles, stated that the duty resting upon Members of the Legislature, that is the Congress, was just as important not to pass unconstitutional legislation as it was for the courts to declare it to be unconstitutional; and he adverted to the fact that it was becoming too common for the legislative branch, doubting the constitutionality of an act to say, "Well, let the court pass upon it," thereby shirking a duty, as the Senator has just indicated, resting upon the Members of Congress.

Mr. ANDREWS. That is correct.

Mr. President, I said a few moments ago there is an attempt by the authors to get this bill before the people in as respectable a light as possible. That is why the preamble says that the bill is proposed under the equal-protection clause of the due-process clause of the Constitution. In the case of Barbier v. Connolly (113 U. S. 31) it was held:

The fourteenth amendment \* \* \* undoubtedly intended not only that there should be no arbitrary deprivation of life or liberty, or arbitrary spoliation of property, but that equal protection and security should be given to all under like circumstances in the enjoyment of their personal and civil rights; that all persons should be equally entitled to pursue their happiness and acquire and enjoy property; that they should have like access to the courts of the country for the protection of their persons and property, the prevention and redress of wrongs, and the enforcement of contracts; that no impediment should be interposed to the pursuits of anyone except as applied to the same pursuits by the others under like circumstances; that no greater burdens should be laid upon one than are laid upon others in the same calling and condition, and that in the administration of criminal justice, no different or higher punishment should be imposed upon one than such as is prescribed to all for like offenses.

I am going to refer now to a phase which comes to my mind and perhaps to the minds of some others who have given thought to this subject. There has been a great deal of discussion as to why it is that men from south of the Potomac River and the Ohio River are very apprehensive about anything that jeopardizes or tends to vary the terms of the Constitution. That sentiment, that feeling, has its foundation deeply buried in history as well as the Constitution.

The decision which was rendered in the Dred Scott case was based on constitutional grounds. That decision has not been overruled. There were many men in the South and in the North who understood the subject matter involved, who understood why suit was brought, and understood the language used by Chief Justice Taney. The decision was in favor of the contentions of those men who lived south of the Potomac River. It was in accord with the contentions of the followers of Thomas Jefferson and James Madison, indeed all other great lawyers.

At the time, or soon after, this opinion was rendered a great man ran for the Presidency. In his speeches over the country he said that the United States could not exist half slave and half free; that a house divided against itself must fall. That was the verdict which grew out of the election of 1860; that was the question involved in that election; and President Lincoln won. If the Democrats had had but one candidate for President that year the belief has been expressed by those who ought to have known at that time that the election would not have resulted as it did. So when the great Lincoln was inaugurated the verdict had been written by the election. The South undertook to stand by the Constitution of the United States and its interpretation by the Supreme Court of the United States in the Dred Scott case.

If that United States flag back of the seat of the Presiding Officer of this Senate stands for anything it stands for the Constitution of the United States.

It so happens that those who chose to stand by the Constitution and the United States Supreme Court were not allowed to carry that banner south of the Potomac River. They were entitled to it. I am challenging anyone here to disprove that statement. Naturally the South had to have a flag of some description in order to obviate conditions

which would naturally result if both sides bore the same flag. The South fought for the principles of that flag, and they are ready to fight for that flag and the Constitution of the United States today for which that flag stands, just as they have always. You will find, Mr. President, a solid phalanx in the South behind that sacred instrument.

I perhaps have expressed more feeling upon this subject than I should. I trust I may be permitted to say why, without it being thought that I am undertaking to arrogate to myself a sentiment to which I am not entitled.

Since I have been a Member of the Senate, I have received so many letters from people whose names are the same as mine that I became interested. I went over to the archives and looked over the record. I found that 552 men bearing the same name belonging to the Andrews clan, fought under Washington. It is no accident that I am here undertaking to defend the rights which we know are ours under the Constitution. We know how it was written; we know the circumstances under which it was written; we know of the debates which took place, for we have them. There is not a lawyer on the floor of this Senate who will undertake unqualifiedly to say that the provisions of this bill are constitutional.

Mr. McKELLAR. Mr. President, will the Senator yield? Mr. ANDREWS. I yield.

Mr. McKELLAR. I recall when a bill very similar to the one now proposed was under consideration in 1922. Senator Samuel Shortridge, of California, reported the bill from the Judiciary Committee. At that time our late beloved colleague from North Carolina, Senator Overman, was a member of the Judiciary Committee. The question was asked Senator Shortridge if there was a single lawyer beside himself who asserted and claimed that the bill was constitutional. He said he thought Senator Sterling considered it to be constitutional.

Mind you, Mr. President, it was the Judiciary Committee of the Senate which had reported the bill, and yet not a member of it, except Senator Shortridge, thought that the bill was constitutional. I doubt if any member of the committee now really believes, in his heart, that the bill now proposed is constitutional, and I am just wondering if my able friend from New York the junior Senator [Mr. Wagner], whom I love very much, is going to take the position that this is really a constitutional bill?

I am wondering if he is going to follow in the footsteps of former Senator Shortridge of California in saying that such a bill is constitutional. Former Senator Shortridge was the only member of the Judiciary Committee which then reported the bill who was certain that he believed at that time that the bill was constitutional.

Mr. WAGNER. Mr. President, will the Senator permit me to answer the question of the Senator from Tennessee?

Mr. ANDREWS. I yield for that purpose.

Mr. WAGNER. I would not be advocating the passage of the bill if I did not regard it as constitutional. I hope at some future time to state my reasons, which may be accepted or rejected by the Senate.

Mr. McKELLAR. Being a lawyer, myself, it is impossible for me to conceive how any lawyer who has had the long experience that the junior Senator from New York has had and who served on the bench with such distinguished ability, could say that he believes this bill is in accordance with the Federal Constitution.

Mr. CONNALLY. Mr. President, will the Senator from Florida yield to enable me to ask the Senator from Tennessee a question?

Mr. ANDREWS. I yield for that purpose.

Mr. CONNALLY. Let me ask the Senator from Tennessee if he does not also know that the junior Senator from New York was one of the chief advocates of the N. R. A., that he appeared, as I remember, before the Finance Committee and made an argument upholding the constitutionality of N. R. A., and that that act was held unconstitutional by the Supreme Court by a unanimous vote.

Mr. McKELLAR. All I can say about it is in the words of Longfellow:

Let the dead past bury its dead.

But we need not go into that matter further.

Mr. CONNALLY. If it would bury them all I would be willing, but the trouble is it will not bury them all.

Mr. McKELLAR. I am willing for this to be buried. An antilynching bill came before the Judiciary Committee and was reported by that committee, but not a single member of it, not a Democrat nor a Republican, was willing to rise on the floor and say he believed it to be constitutional, with the exception of former Senator Shortridge, as I have said.

In a speech made at that time, which I have now before me and I had referred to it to be certain before making this statement, I challenged any Senator to say he believed that bill to be constitutional. Former Senator Shortridge was the only one who was bold enough to say he believed it. He said he believed it to be constitutional and, of course, I took his word for it. However, of all the great lawyers on the Judiciary Committee at that time—the Senator from Utah [Mr. King], the Senator from Idaho [Mr. Borah]. former Senator Overman of North Carolina, the distinguished Senator from Arizona [Mr. ASHURST], and others of the most distinguished men of that day in this body were members of the Judiciary Committee at that time—former Senator Shortridge of California was the only one who had the temerity to rise in this body and say he believed the bill was constitutional. To my mind it is the most difficult thing in the world to conceive how any man who has studied our Constitution can believe that the Federal Government has anything to do with such a matter.

Mr. WAGNER. Mr. President, will the Senator from Florida, who has been so gracious, yield to me for another statement and then I shall not interrupt him again?

Mr. ANDREWS. I yield to the Senator from New York.

Mr. WAGNER. Of course, I am sure all of us some time or other are incorrect in our contentions as to certain legislation being constitutional. I happen to have a record of votes cast by other Senators on proposed legislation, some later held constitutional and some not. May I remind the Senate that against the opinion of some of the most distinguished lawyers in the Senate-and I am not one-I contended that the Social Security Act was constitutional. I sponsored and advocated it for some time contrary to the contention of many other Senators who even voted for it though they declared it was unconstitutional. However, it was held constitutional by the Court. The Labor Relations Act, which it was generally predicted would not be upheld by the Court, also was upheld by the Court. Let none of us boast too much. We all make our mistakes as to what the Court will do. It is a matter merely of prediction.

Mr. McKELLAR. I do not think it is wholly a matter of prediction. I voted for both of the bills to which the Sena-

tor referred.

Mr. WAGNER. Did the Senator vote for the A. A. A.? Mr. McKELLAR. I voted for the A. A. A., and, I am frank to say, I still think the A. A. A. was constitutional.

Mr. WAGNER. So do I.

Mr. McKELLAR. I never believed it any more strongly than I do right now. I want to use kindly language in speaking about any department of the Government, but the least supported opinion in any important case among those reported in some two-hundred-odd volumes of the Supreme Court reports is the opinion of Mr. Justice Roberts in the A. A. A. case. That law ought to have been held constitutional.

Mr. WAGNER. The Senator's prediction in that case was wrong, and so was mine. I voted for the A. A. A. It did not affect my State, but it was needed for the country generally and I voted for it. I believed then it was constitutional and I believe today it is constitutional.

Mr. McKELLAR. That may be true, but let me say to the Senator that he has very carefully excluded in the antilynching bill practically every possibility of the bill

applying to New York people by exempting from its provisions lynchings or killings by gangsters and racketeers. Several hundred people were killed in New York City in the last few years by gangsters and racketeers, many more than were lynched in the whole United States, but the Senator in his bill has carefully excluded gangsters and lawbreakers in his city and State. He is seeking to "pluck the mote" that he thinks is found in the eyes of other States.

Mr. WAGNER. I am sure the Senator does not ascribe to me any improper motives.

Mr. McKELLAR. Oh, no.

Mr. WAGNER. He surely does not intimate that I am deliberately attempting to protect gangsters and racketeers. The Senator evidently was not present the other day when the history of that provision was stated upon the floor by the Senator from Indiana [Mr. Van Nuys]. That provision was inserted in the bill by the Judiciary Committee at the suggestion of the junior Senator from Illinois [Mr. DIETE-RICH], and it was so stated at that time. The Senator from Indiana [Mr. Van Nuys] stated that I had nothing to do at all with that provision.

I merely accepted the judgment of the Judiciary Committee upon that provision, and since then I have stated that I am going to ask that it be eliminated from the bill. The Senator from Indiana [Mr. Van Nuys] has stated that he will ask that it be eliminated from the bill, and so will the Senator from Illinois [Mr. DIETERICH], who feels that the amendment or provision was perhaps unwisely inserted. That is the history of that provision.

Mr. McKELLAR. Whatever the history of it, here are the words of the bill.

Mr. WAGNER. There is an explanation for it.

Mr. McKELLAR. There is no explanation.

Mr. WAGNER. I hope the Senator does not mean what he intimates, that I deliberately intended to protect gangsters and racketeers.

Mr. McKELLAR. Oh, no. I think too much of my friend to say any such thing.

Mr. WAGNER. I would not ascribe that to any Member of this body.

Mr. McKELLAR. Here is the language which the Senator reported in the bill and for which he asks Senators to vote:

Provided, however, That "lynching" shall not be deemed to include violence occurring between members of groups of lawbreakers such as are commonly designated as gangsters or racketeers, nor violence occurring during the course of picketing or boycotting or any incident in connection with any "labor dispute" as that term is defined and used in the act of March 23, 1932 (47 Stat. 70).

My recollection is that some 237 men were killed last year in the city of New York by gangsters or racketeers, while only 9 altogether were lynched in the entire United States; but, if the Senator's bill shall be enacted as he reported it out of the committee, the fact remains that he will have excused lynching by racketeers and gangsters.

Mr. WAGNER. Mr. President, the Senator as a lawyer does not mean to say that that provision in the bill means that a racketeer cannot be prosecuted within the State.

Mr. McKELLAR. Oh, no; and as a lawyer I mean to say that men who commit the crime of lynching anywhere ought not to be excused, but the Senator excuses certain classes of them in this bill. He takes them out of the bill.

So far as this bill is concerned he takes them carefully out of it, and says that when a man is called a gangster, for instance—I will not use his own city as an example—in a city in the State of the Senator from Texas, or a city in my State, or a city in the State of any other Senator where there are gangsters and racketeers, persons may lynch them all they want to, and they will not come within the provisions of this bill.

Is that just or fair? It shows that the bill cannot be for the purpose of upholding the law against illegal killings, but is for other purposes.

Mr. WAGNER. Mr. President, will the Senator from Florida yield to me? Perhaps, however, I had better wait until a later time. I do not want to interrupt the Senator any |

Mr. ANDREWS. I should like to conclude in the next few minutes.

Mr. WAGNER. I will merely say that the Senator from Tennessee does not quite understand the bill.

Mr. CONNALLY. Mr. President, will the Senator from Florida yield to me so that I may ask the Senator from Tennessee a question?

Mr. ANDREWS. Yes; I yield. Mr. CONNALLY. I should like to ask the Senator from Tennessee this question: If the provisions of the bill are constitutional, and the Federal Government may punish lynching, may not the Federal Government, under the fourteenth amendment, also punish the criminals who ravish women and deprive them of the protection of their lives? And if the Senator from New York had desired to do so, could he not have put in this bill a provision of that kind to protect innocent women who are outraged and killed and murdered, even in New York?

Mr. McKELLAR. Why, of course. The Senator is exactly

Mr. CONNALLY. The reports from New York say that sex murders in Brooklyn and other places have filled the press. That subject can be covered in this bill if lynchers can be punished under it. If the Senator from New York wants to protect people under the fourteenth amendment, why does he not put in the bill a criminal provision against the heinous beasts who destroy and attack womanhood?

Mr. McKELLAR. If the Senator from Florida will permit me, I will say to the Senator from Texas that I remember that in the debate which took place 15 years ago, in 1922, when a bill similar to this one was before the Senate, Senator Edge, of New Jersey, was one of its very warm advocates, and spoke very earnestly for the bill. At that time it was the common knowledge of all men that there was an "open season" on ministers of the gospel in the State of New Jersey, and there was one particular case of murderwhich, by the way, has never been punished in any wayof a minister who was shot down, and not a word was said about it by the people of that State; but they wanted to take care of crimes of a certain kind in other States. It is just a case of the old Biblical saying:

Cast out first the beam out of thine own eye, and then shalt thou see clearly to pull out the mote that is in thy brother's eye.

I want to say to the Senator from New York-whom I love very dearly and admire very greatly, notwithstanding his great misconception of the law in this case, in my judgment—that there are crimes in his own State far surpassing in number and far surpassing in terrorism those with which this bill undertakes to deal. I refer to the crimes of gangsters and racketeers that we read about in almost every day's newspaper. They need the attention of the Senator a thousand times more than the 8 or 10 lynchings which occurred last year in all the rest of the country.

Mr. WAGNER. Mr. President, will the Senator from Florida yield for one further word?

Mr. ANDREWS. I yield. Mr. WAGNER. Apparently there is a misconception of the provisions of this bill. The bill leaves to each State the prosecution of those who have lynched a particular individual, because that would be a charge of murder; and under this legislation, the State itself is in no way interfered with in the prosecution of a criminal. All that the bill deals with is the State which, through its agents or officers, through its own connivance, conspiring, or willful neglect, permits a lynching to take place. If it does that, the bill takes the position, as the fourteenth amendment provides, that the particular State has not given equal protection to the persons living within its jurisdiction.

The bill does not deal with the criminal, or the person who committed the lynching. It deals only with the State; and, of course, as the Supreme Court has said time and time again, and it is common sense, a State acts only through its officials. Therefore, whatever the officials do is the act of the State; and the bill is limited altogether to that.

Mr. McKELLAR. Yes: but, however limited it is, the Senator would undertake to deal with the crime indirectly. Heaven knows, no one is more opposed to lynching than I am. I think it is abominable. I would do away with it instantly if it were in my power. If I were Governor of my own State, I would keep forces at work that would prevent lynching taking place in my State. I am tremendously opposed to it; but the Senator is undertaking to do directly what he cannot do directly, and he undertakes to punish perhaps perfectly innocent persons for the crimes of others.

I do not believe in punishing innocent persons. Under this bill, county officers might be perfectly innocent, and yet they might be fined from two to ten thousand dollars.

Mr. WAGNER. Oh, no, Mr. President. They have to be willfully neglectful; and even when an action is brought against a county, the bill itself provides that if the county shows by a mere preponderance of evidence, not beyond a reasonable doubt, that the officials of the State-that is, the State itself, acting through its officials-did everything in its power to prevent the lynching, no recovery can be had; and no official can be punished unless it is established beyond a reasonable doubt that by these acts he permitted the lynching to take place. In other words, let us remember that it is merely the State we are dealing with, not the individual criminal, because he will be dealt with by the State, as he is now; and the bill refers to every State in the Union.

Mr. McKELLAR. Mr. President, I think the Senator must have forgotten what is in his own bill. I read from section 3 on page 7:

Whenever a lynching of any person or persons shall occur, any officer or employee of a State or any governmental subdivision thereof who shall have been charged with the duty or shall have possessed the authority as such officer or employee to protect such person or persons from lynching and shall have willfully neglected, refused, or failed to make all diligent efforts to protect such person or persons from lynching and any officer or employee of a State or governmental subdivision thereof who shall have had custody of governmental subdivision thereof who shall have had custody of the person or persons lynched and shall have willfully neglected, refused, or failed to make all diligent efforts to protect such person or persons from lynching, and any officer or employee of a State or governmental subdivision thereof who, having the duty as such officer or employee, shall willfully neglect, refuse, or fail to make all diligent efforts to apprehend, keep in custody, or prosecute the members or any member of the lynching mob, shall be guilty of a felony and upon conviction thereof shall be punished by a fine not exceeding \$5,000 or by imprisonment not exceeding 5 years, or by both such fine and imprisonment. or by both such fine and imprisonment.

In other words, the Senator would have the Federal Government supervise the crime of lynching; and yet in the very bill which he presents here he is unwilling to let racketeers and gangsters be supervised by the Federal Government. The Federal Government has no more right to supervise the crime of lynching by others than to supervise the crime of lynching by gangsters or by racketeers. It has no right at all under the Constitution to do so; and I challenge the Senator now, when he comes to make a speech on the subject, if this bill should ever come up again-and I hope it will not-

Mr. WAGNER. It will.

Mr. McKELLAR. Because I think the subject should be dealt with in a proper manner; but, if it ever does come up again, I challenge the Senator to put his finger on a clause of the Constitution that permits such a bill to be enacted.

Mr. CONNALLY. Mr. President, will the Senator yield for a question?

Mr. McKELLAR. I have not the floor. The Senator from Florida has the floor. I thank the Senator from Florida for yielding to me, and I apologize to him at the same time.

Mr. ANDREWS. I yield to the Senator from Texas.

Mr. CONNALLY. Let me ask the Senator from Tennes-see a question. If, under this bill, the Federal Government may hold a State responsible for not preserving the life of a fiendish beast who violates innocent womanhood, might it not also hold a State responsible for not protecting the life or safety of the woman under the fourteenth amendment?

Mr. McKELLAR. Why, of course.

Mr. CONNALLY. Might not the Federal Government hold the State of New York responsible for not protecting the lives of the victims of sex murders in Brooklyn and elsewhere, which have been filling the newspapers of the country for 6 months—little children waylaid on the streets of Brooklyn, violated, and then murdered? Why does not the Senator from New York, under this duty to protect life and give the equal protection of the laws to these children, give them the same protection that the bill now offers to give to racketeers?

Mr. McKellar. But that is not the purpose of the bill. I do not mean any disrespect to the Senator from New York when I say that this bill is political, just exactly as the bill in 1922 was political; and I recall that the Senator who had charge of it then, Mr. Shortridge, went down in defeat the next time he came up for election. I am not predicting anything at all; I hope my friend from New York will be reelected; but I am just giving him history. Mr. Shortridge tried that route, he appealed to the Senate to pass the bill, in exactly the same way the Senator is now appealing, and what was the result? Mr. Shortridge was left at home at the next election. I hope the Senator from New York will have better luck than did his predecessor.

Mr. CONNALLY. May I suggest to the Senator that Senator Shortridge's bill did not exempt the racketeers and the gangsters. If they had all voted for him, he might have

come back. [Laughter.]

Mr. McKELLAR. Yes; perhaps that is why Senator Shortridge was not reelected—he did not exempt racketeers and gangsters. The Senator from New York does exempt the racketeers and gangsters, and perhaps there are enough of them in New York—I do not know how many there are, but, judging from the papers, there are a good many—to enable him to get by, and I wish him well; but I am warning him from history.

Mr. CONNALLY. Does not the Senator think the gangsters and racketeers ought to support the Senator from New York?

Mr. McKELLAR. Of course. [Laughter.]

Mr. WAGNER. Mr. President, I shall not become indignant because the Senator ascribed to me merely political motives in advocating the proposed legislation, beyond saying that that is not the fact. I do not think we ought to indulge in this practice of impugning one another's motives unless there is some real evidence to justify such a reference.

Mr. McKELLAR. Mr. President-

Mr. WAGNER. I have a very sincere purpose in this bill. I want to assuage the apprehension of the Senator from Tennessee so far as next year is concerned. I am not so sure about submitting myself again, about wanting to continue my services in this body. However, it is not generally known that I ran this year. I have tested myself. I ran this year, State-wide, as a delegate to the constitutional convention, and I was elected, with this bill pending at the time, by a very comfortable majority, I may say to the Senator, so that perhaps he is unduly apprehensive about next year.

Mr. McKELLAR. If I am apprehensive, I am apprehensive in behalf of the Senator and not against him.

Mr. WAGNER. So, if I do believe in the proposed legislation, as I do, and I am trying, whether I succeed or not, to stop what we all agree is a terrible thing—nobody has soiled his lips, nobody would here, by defending lynching of any kind—if we could reduce it or do away with it, is not that much more important than my reelection? That is not important at all. Let us forget that

not important at all. Let us forget that.

Mr. McKELLAR. I wish to ask the Senator a question in all good faith, because I am not impugning his motives in any way.

In all good humor, I wish to ask the Senator from New York a question. In 1892, quite a number of years ago, there were 232 lynchings in the United States. The States have gradually reduced the number until last year, I believe, there were only nine. That indicates a wonderful record in the reduction in crime. While the number of lynchings have

been constantly reduced, the Senator knows the crimes of gangsters and racketeers have been constantly increasing, and are now taking place by the thousand. The question I desire to ask the Senator is, why not put the zeal that is in the Senator, why not put the brains that are in the Senator's head, to work on the far more serious question, the crimes of gangsters and racketeers, rather than single out lynching, which is gradually disappearing; and I pray God that it may soon disappear altogether.

Mr. ANDREWS. Mr. President, the same remark applies to kidnaping. There are 10 times as many kidnapings now as there were 10 years ago. Let us by some means stop a crime that is increasing, and Congress has undertaken to do that. We have passed a bill relating to that crime, the constitutionality of which no one doubts.

One provision of the bill we are discussing undertakes to impose a fine on a county. Would not that be a most unusual spectacle, to try to collect a fine from a county after it had made up its budget under the State law? It could be done only by a tax levy. That provision is not worth the paper it is written on, a provision for a fine against a county by the Federal Government for failure of some constable, perchance, to perform his duty. It is so ridiculous that it does not need comment.

Mr. McKELLAR. Mr. President, let me ask the Senator, how would the United States Government proceed to force a county to levy a tax to pay such a fine under our Constitutions, both State and National? It seems to me it is so far-fetched that there is nothing in the contention, unless it is a political contention.

Mr. ANDREWS. They would just have to put the Constitution under the table.

There is one case to which I shall refer, and then I will be through. I will state, however, that whenever this bill is presented on its merits—

Mr. CONNALLY. The Senator means its "demerits," does he not?

Mr. ANDREWS. Yes; whatever it may be called. I expect to have prepared and present an argument on the constitutionality of the measure itself. I have been shooting more or less in the air today on other phases of the bill with very little preparation. We were not expected to take up this bill at all during this special session.

The Supreme Court of the United States, in the opinion in the case of Carter v. Carter Coal Co. (298 U. S. 238), discussed the powers conferred by the States upon the Congress and the Federal Government in the following language:

The general rule with regard to the respective powers of the National and the State governments under the Constitution is not in doubt. The States were before the Constitution; and, consequently, their legislative powers antedated the Constitution. Those who framed and those who adopted that instrument meant to carve from the general mass of legislative powers, then possessed by the States, only such portions as it was thought wise to confer upon the Federal Government; and in order that there should be no uncertainty in respect of what was taken and what was left the national powers of legislation were not aggregated but enumerated—with the result that what was not embraced by the enumeration remained vested in the States without change or impairment. Thus, "when it was found necessary to establish a national government for national purposes" this court said, in Munn v. Illinois (84 U. S. 113, 124), "a part of the powers of the States and the people of the States was granted to the United States and the people of the United States.

"This grant operated as a further limitation upon the powers of the States, so that now the governments of the States possess all the powers of the Parliament of England, except such as have been delegated to the United States or reserved by the people." While the States are not sovereign in the true sense of that term.

"This grant operated as a further limitation upon the powers of the States, so that now the governments of the States possess all the powers of the Parliament of England, except such as have been delegated to the United States or reserved by the people." While the States are not sovereign in the true sense of that term, but only quasi sovereign, yet in respect of all powers reserved to them they are supreme—"as independent of the General Government as that Government within its sphere is independent of the States." And, since every addition to the legislative power to some extent detracts from or invades the power of the States, it is of vital moment that, in order to preserve the fixed balance intended by the Constitution, the powers of the General Government be not so extended as to embrace any not within the express terms of the several grants or the implications necessarily to be

drawn therefrom.

It is no longer open to question that the General Government, unlike the States, possesses no inherent power in respect of the internal affairs of the States; and emphatically not with regard to legislation. The question in respect of the inherent power of that

Government as to the external affairs of the Nation and in the field of international law is a wholly different matter which it is not necessary now to consider.

There can be no question but that this bill, if it is enacted, would be a usurpation of a power which has never been granted by the States to the General Government and never will.

Mr. President, with this I conclude my remarks for the time being.

#### COINAGE OF SILVER

Mr. PITTMAN. Mr. President, I wish for just a few moments to make a statement with regard to a matter that is emergent, but at the present time entirely within the jurisdiction and discretion of the President. The coinage of American silver may end on the 31st day of December 1937. I do not believe it will, because the President of the United States, who brought about the coinage of silver in 1933, has the power to extend this coinage by supplemental proclamation. If, however, the coinage of American silver did cease at the end of this year it would result in the closing down of mines all over this country, not only so-called silver mines but gold mines, lead, zinc, and copper mines, because the working of those mines depends very largely upon the silver content of the ore or the rock. Yet the President has given public notice that the coinage of American silver, which was initiated by the Presidential proclamation on December 21, 1933, will by the terms of that very proclamation end on the 31st day of December this year, 1937. If that should take place the price of silver would instantly be broken down over 40 percent. It would drop instantly from its present price of 771/2 cents, or, to be exact, 77.57 cents, an ounce to the present world price of 44% cents an ounce. The chances are that by the abandonment of the silver policy of the President the world price of silver would drop, and, of sourse, in that case the price of American silver would follow it down, probably to 25 cents an ounce, the price of American silver at the time the President initiated this policy.

We must remember what took place immediately after the depression of 1929. Nearly every mine in the United States closed down. Copper mines which found it necessary to run even at a loss were operating on only 20-percent capacity. The same was true with lead mines and also with zinc mines. The same was true even with gold mines and silver mines. Why? Because copper had gone down below 7 cents a pound; because lead and zinc had gone down below 4 cents a pound; and silver, which is always found associated with those metals in the rock, was at the world's low price of 25 cents an ounce.

Mr. President, we are approaching the same situation now. The price of copper and lead and zinc in the last 3 months has been falling rapidly, with no bottom in sight. If copper gets below 7 cents a pound, zinc below 4 cents a pound, and lead below 4 cents a pound, and you do not hold silver at 77.57 cents an ounce, practically every mine in this country will either close, as they did in 1930 and 1931, or they will cut down their production probably to 20 percent. The result of that is perfectly evident. That means that there will be hundreds of thousands of employees thrown back on the relief rolls.

When this policy of the President was inaugurated in 1933 it was helped, of course, by raising the gold price to \$35 an ounce, but it was chiefly the raising of the price of silver that opened the mines, because gold is generally found alone, while silver is found associated with other metals. At that time, in the mining section of this country in the West, where the two great industries are mining and stock raising, there was a tremendous amount of idleness, of unemployment, and a great load on the Federal Government. But when that policy was initiated in 1933 it took 400,000 men and women off the relief rolls and put them in the highest class of employment for the highest wages.

The President has stated that the proclamation under which this silver coinage took place will expire on December 31, 1937. He has not said whether he will issue another proclamation or not. When this notice went out to the

western country where mining is one of the chief industries, where there are but few other industries, where the breaking down of this industry would almost place a State in bankruptcy, there was alarm, in fact, the condition became almost panicky. This would seem to be no time to attempt to cut down the stable, fixed price of silver, when all commodity prices are tumbling, and when the prices of the associated metals of silver, lead, zinc, and copper are falling rapidly without any bottom. There is nothing that the Government can do to stop the immediate fall of the price of copper, lead, and zinc, but it is within the Government's power to prevent the price of the associate metal, silver, from falling. It is possible that if the Government can hold the price of silver where it has been for 3 years, and where it is now-and the President can do it by signing a simple proclamationthat these mines, in spite of the falling of the price of the other metals in the rock, will be able to go on operating.

Mr. President, the Senator from Oregon [Mr. McNary] asked me what is the nature of the proclamation. I will read just two clauses of the proclamation, and the Senator will then get the whole purport of it.

# BY THE PRESIDENT OF THE UNITED STATES

A PROCLAMATION

Whereas, by paragraph (2) of section 43, title III of the act of Congress approved May 12, 1933 (Public, No. 10), the President is authorized "By proclamation to fix the weight of the gold dollar in grains 0.9 fine and also to fix the weight of the silver dollar in grains 0.9 fine at a definite fixed ratio in relation to the gold dollar at such amounts as he finds necessary from his investigation to stabilize domestic prices or to protect the foreign commerce against the adverse effect of depreciated foreign currencies, and to provide for the unlimited coinage of such gold and silver at the ratio so

for the unlimited coinage of such gold and silver at the ratio so fixed, \* \* \*"; and

Whereas, from investigations made by me, I find it necessary, in aid of the stabilization of domestic prices and in accordance with the policy and program authorized by Congress, which are now being administered, and to protect our foreign commerce against the adverse effect of depreciated foreign currencies, that the price of silver be enhanced and stabilized;

Mr. ADAMS. Mr. President, will the Senator yield to me for a question?

Mr. PITTMAN. I yield.

Mr. ADAMS. If the Senator has them at hand, can he give the figures as to the total amount of domestically produced silver which has been purchased annually?

Mr. PITTMAN. Newly mined domestic silver acquired by the Government under that act and through that proclamation-which means newly mined silver produced in the United States-since the date of the proclamation is as follows: 151,834,000 ounces, and the total price paid for it by the Government, \$112,705,000. In other words, 74.2 cents an ounce.

Mr. ADAMS. Does not the United States Government have the authority under the law to coin the silver so purchased into standard silver dollars?

Mr. PITTMAN. It does.

Mr. ADAMS. If that is true, what is the monetary value of the silver so produced? That is, if it is bought at about 70 cents an ounce what would be the monetary value, and the practical results to the Government of the purchases?

Mr. PITTMAN. This act must be separated in our minds from the so-called Silver Purchase Act of 1934. The Government does not purchase under this act the new silver, but what it does do is to coin it into standard silver dollars, and it charges the miner or producer 40 percent of the total value of that silver as a fee for the services rendered and turns over to the miner or his assignee 60 percent of the silver for the benefit of his production.

Now let us see how that works out. As there are only about three-quarters of an ounce of silver in a dollar, therefore, an ounce of silver is worth \$1.29.

Mr. ADAMS. That is the monetary value when coined? Mr. PITTMAN. That is the monetary value when coined. In the proclamation it will be found that the President of the United States fixed the present parity between gold and silver. In other words, he said 3711/4 grains of pure silver shall be equal to a dollar. Therefore if a dollar will buy only three-quarters of an ounce of silver, on that basis, then,

an ounce is worth \$1.29. That is, therefore, the value at which the Government of the United States circulates its silver dollars or silver certificates.

Out of that it gives to the miner 77.57 cents an ounce. It keeps for itself approximately 51 cents an ounce. The cost to the Government to mint and circulate these standard silver dollars is not over 1 cent an ounce. Yet the Government for that service gets 51 cents out of every ounce and lets the miners have 77.57 cents. Out of the 77.57 cents an ounce the miner has got to pay all expenses of mining, milling, reducing, and refining.

Now we get down to a point we have heard discussed, and I might as well advert to it now. We have heard it stated on the floor that silver can be mined for 15 cents an ounce.

The distinguished Senator who made that assertion, if he could sell that formula to the miners of this country, would be able to accumulate the largest Presidential campaign fund that was ever accumulated. I have been connected with mining both in a legal capacity and as a miner. Take, for instance, the great mines at Tonopah, Nev., which were the greatest so-called silver mines outside of the Comstock that were ever discovered in the United States.

They are called silver mines because three-fourths of the value in the rock in those mines is silver and one-fourth is gold. Those mines produced in 12 years \$135,000,000. It was not all profit, of course. How much did it cost them an ounce to mine that silver? Mind you, Mr. President, these are what we call high-grade silver mines; that is, the average amount of silver in every ton of rock is 18 ounces. The price of silver, however, on the average, during that time, was only 50 cents per ounce. Therefore the 18 ounces of silver were only worth \$9; and it cost \$9 to mine every ton of the ore which was mined in that camp. There was no profit on the mining of silver alone at that price. In that case it cost a dollar an ounce to mine silver in that great camp, and not 15 cents. But it happened that one-fourth in value of the mineral in that rock was gold, there being one-eighth of an ounce of gold in every ton of the rock, which meant \$2.50. The total receipts from that ore were \$9 for silver and \$2.50 for gold, representing a profit of \$2.50 on the entire operation per ton. In other words, the total value, including gold, was \$11.50, which meant that the cost of mining the silver was three-fourths of the total cost, which would be about 67.5 cents an ounce. Yet we are told by some that silver can be mined for 15 cents an ounce.

A number of years ago a committee was appointed by the Senate to determine the cost of mining silver and gold. The greatest experts in the country were hired; we had the assistance of the Bureau of Mines; and it was found that the average cost of producing silver in this country was 60 cents an ounce. It may be found that in a mine such as the one in the State of Washington, which I believe is called the Sunshine Mine, very probably the ore yields a hundred ounces to the ton. That grade of ore is very unusual. The average ore in the United States does not have over 12 ounces of silver to the ton. It would cost \$9 a ton to reduce that ore, but the cost per ounce would be exceedingly low.

Of course, that ore could be reduced very cheaply, because it does not cost any more to mine a ton of rock containing a hundred ounces than it does to mine ore containing 8 ounces or 12 ounces. So the statement as to cost that has been made here is perfectly silly.

Mr. President, we know that the price of silver will determine whether or not the great copper mines at Butte will be able to operate when copper drops to 8 cents a pound, a point which it has pretty nearly reached now. The Butte ore runs 4 ounces of silver to every ton of rock. Give them 77.57 cents an ounce for the silver and the copper mines will operate, even when the copper produced will not pay the expenses of mining. Cut the price of silver down to 25 cents an ounce, the mines in Butte will close, and four or five thousand of the finest miners in this country will be turned loose, will become idle and put back on the relief rolls again.

Take even the great Nevada Consolidated Copper Mine, which is probably the cheapest producing copper mine worked in the world. With copper down to 7 cents a pound, they cut their production to 20 percent of capacity, because at that time, although the ore of that mine contains 4 ounces of silver in the rock with the copper, with silver at 25 cents an ounce, which it was, they could not operate; but hold silver at 77.57 cents an ounce, where it is, and the silver alone will be worth \$3 for every ton; so that even when the copper does not pay, the silver will hold it up.

So I say, Mr. President, it is an extremely serious matter; and yet there has not been a word from the Treasury Department as to what is going to happen after the 1st day of January. They have, of course, told us that the President's proclamation authorizing this coinage will end on the 31st day of December, but they have omitted to say that the President had a right to make a supplemental proclamation extending the life of the act until June 30, 1939. When the President signed this proclamation the law, by its terms, provided that it should expire in this year, and therefore his proclamation expired in this year; but at the beginning of this year Congress extended that act until June 30, 1939, and the President should extend his proclamation until June 30, 1939. He should do it now, because there is an uneasiness pervading the whole western section, a lack of confidence, and a fear that prevents the flowing of capital into all kinds of mining industry.

Some have said they doubt whether the President had the legal authority to do it. The same law exists today that authorized him to renew the proclamation from which I, in part, read. The same law that authorized that proclamation exists today. It is plain and simple. It authorizes him to coin unlimitedly gold and silver at such ratio as he shall fix, and he fixed the ratio in the proclamation at the present

I do not think there is much more to say about the matter. I wish to place in the RECORD the entire proclamation from which I have quoted. It will disclose very clearly the reasons of the President and also his power to extend the operation of the act

There being no objection, the proclamation was ordered to be printed in the RECORD, as follows:

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

# A PROCLAMATION

Whereas by paragraph (2) of section 43, title III. of the act of Congress approved May 12, 1933 (Public, No. 10), the President is authorized "by proclamation to fix the weight of the gold dollar in grains 0.9 fine, and also to fix the weight of the silver dollar in grains 0.9 fine at a definite fixed ratio in relation to the gold dollar at such amounts as he finds necessary from his investi-gation to stabilize domestic prices or to protect the foreign commerce against the adverse effect of depreciated foreign currencies, and to provide for the unlimited coinage of such gold and silver at the ratio so fixed \* \* "; and

and to provide for the unlimited coinage of such gold and silver at the ratio so fixed \* \* \*"; and Whereas, from investigations made by me, I find it necessary, in aid of the stabilization of domestic prices and in accordance with the policy and program authorized by Congress, which are now being administered, and to protect our foreign commerce against the adverse effect of depreciated foreign currencies, that the price of silver be enhanced and stabilized; and Whereas a resolution presented by the delegation of the United States of America was unanimously adopted at the World Economic and Monetary Conference in London on July 20, 1933, by the representatives of 66 governments, which in substance provided that said governments will abandon the policy and practice of melting up or debasing silver coins, that low-valued silver currency be replaced with silver coins, and that no legislation should be enacted that will depreciate the value of silver; and Whereas a separate and supplemental agreement was entered into, at the instance of the representatives of the United States, between China, India, and Spain, the holders and users of large

between China, India, and Spain, the holders and users of large quantities of silver, on the one hand, and Australia, Canada, Mex-ico, Peru, and the United States, on the other hand, as the chief ico, Peru, and the United States, on the other hand, as the chief producers of silver, wherein China agreed not to dispose of any silver derived from the melting up or debasement of silver coins, and India agreed not to dispose of over 35,000,000 ounces of silver per annum during a period of 4 years commencing January 1, 1934, and Spain agreed not to dispose of over 5,000,000 ounces of silver annually during said period, and both of said Governments agreed that at the end of said period of 4 years they would then subject themselves to the general resolution adopted at the London Conference; and in consideration of such limitation if London Conference; and in consideration of such limitation it was agreed that the governments of the five producing countries would each absorb from the mines in their respective countries a certain amount of silver, the total amount to be absorbed by said producing countries being 35,000,000 ounces per annum during the 4 years commencing the 1st day of January 1934; that such silver so absorbed would be retained in each of said respective countries for said period of 4 years, to be used for coinage purposes or as reserves for currency, or to otherwise be retained and kept off the world market during such period of time, it being understood that of the 35,000,000 ounces the United States was to absorb annually at least 24,421,410 ounces of the silver produced in the United States during such period of time.

Now, therefore, finding it proper to cooperate with other governments and necessary to assist in increasing and stabilizing domestic prices, to augment the purchasing power of peoples in silver-using countries, to protect our foreign commerce against the adverse effect of depreciated foreign currencies, and to carry out the understanding between the 66 governments that adopted the resolution hereinbefore referred to, by virtue of the power in me vested by the act of Congress above cited, the other legislation designated for national recovery, and by virtue of all other authority in me vested—

I. Franklin D. Brosseyalt President of the United States of

authority in me vested-

I, Franklin D. Roosevelt, President of the United States of America, do proclaim and direct that each United States coinage America, do proclaim and direct that each United States coinage mint shall receive for coinage into standard silver dollars any silver which such mint, subject to regulations prescribed hereunder by the Secretary of the Treasury, is satisfied has been mined, subsequently to the date of this proclamation, from natural deposits in the United States or any place subject to the jurisdiction thereof. The Director of the Mint, with the voluntary consent of the owner, shall deduct and retain of such silver so received 50 percent as seigniorage and for services performed by the Government of the United States relative to the coinage and delivery of silver dollars. The balance of such silver so received—that is, 50 percent thereof—shall be coined into standard silver dollars, shall be delivered to the owner or depositor of such silver. The 50 percent of such silver so deducted shall be retained as bullion by the Treasury and shall not be disposed of prior to the 31st day of December 1937, except for coining into United States coins.

The Secretary of the Treasury is authorized to prescribe regula-

The Secretary of the Treasury is authorized to prescribe regula-tions to carry out the purposes of this proclamation. Such regu-lations shall contain provisions substantially similar to the provilations shall contain provisions substantially similar to the provisions contained in the regulations made pursuant to the act of Congress, approved April 23, 1918 (40 Stat. L., p. 535), known as the Pittman Act, with such changes as he shall determine prescribing how silver mined, subsequently to the date of this proclamation from natural deposits in the United States or any place subject to the jurisdiction thereof, shall be identified.

This proclamation shall remain in force and effect until the 31st day of December 1937, unless repealed or modified by act of Congress or by subsequent proclamation.

The present ratio in weight and fineness of the silver dollar to the gold dollar shall, for the purposes of this proclamation, be maintained until changed by further order or proclamation.

Notice is hereby given that I reserve the right by virtue of the authority vested in me to revoke or modify this proclamation as the interest of the United States may seem to require.

In witness whereof I have hereunto set my hand and caused the seal of the United States to be affixed.

Done at the city of Washington this 21st day of December A. D.

Done at the city of Washington this 21st day of December A. D. 1933, and of the independence of the United States of America the one hundred and fifty-eighth.

FRANKLIN D. ROOSEVELT.

By the President:

WILLIAM PHILLIPS Acting Secretary of State.

Mr. PITTMAN. I also desire to place in the RECORD a much fuller discussion of the subject, which I made before the Mining Congress at Salt Lake City, Utah, at its recent convention. I shall not take the time of the Senate to read it, because it largely deals with statistics; it deals with the production of gold and silver in the United States; it deals with the production of gold and silver in the world; and it deals with the subject of unemployment.

Mr. President, it has been charged that the miners are receiving a bonus of the difference between the world price of silver and 77.57 cents an ounce. It is not that. The Government could take it all if it wanted to do so. It could charge anything it wanted to ask. Today, out of the silver that is coined, with which the Government pays its debts at a value of \$1.29 an ounce, and which is circulated at \$1.29 an ounce, they generously give 77.57 cents an ounce to the man who takes all the risk and spends all the money required in producing it. Some are sorry and some are angry because the Government does not take more away from the

That is all there is to it. There is no bonus about it. There is no reason why the Government should charge 51 cents out of every ounce to coin silver when it costs only 1 cent to coin it.

I have set forth very extensively those figures in the address which I made before the Mining Congress, and I shall be glad to have permission to have it made a part of my statement

There being no objection, the address was ordered to be printed in the RECORD, as follows:

#### SILVER

### (By Senator KEY PITTMAN)

(By Senator Key PITTMAN)

Mining has had a fascination for me since the early days when I read in romances of the wide open spaces of the West, and so, too, I have been at home with those who are intrigued also through the production of minerals and who go down into the bowels of the earth and toil and fight against great odds for the exhilaration of occasional successes. Lest there be suspicion that this is flattery, let me assure you that I have actually mined with my hands as most of you have done. I fear if this question were contested in a court that we would be poor exhibits with our urbane clothes, soft hands, and luxurious figures. I have had the pleasure of meeting at previous conventions of the Mining Congress many of the delegates who are here today. It seems, however, that this is the first time that I have realized how many of our able and distinguished mine operators reside in cities where their associations are naturally more apt to be with bankers than with the fellows whose duty it is to dig the ore out of the ground and to extract the minerals therefrom at a profit. Mine operators are like cowboys—they are found everywhere except on their range.

#### REFERENCE TO GOLD PRICE

Mr. René Leon, who has just preceded me, has spoken very interestingly and ably upon the monetary system of the future. I agree with him so fully that I hesitate to seem to take any issue with him whatsoever. I feel impelled, however, to briefly touch upon the subject of the price of gold before proceeding to my discussion of the silver problem, as bimetallism requires a fixed ratio between gold and silver, not only as to weights but as to values.

It has been contended by some of the ablest and most experienced monetary experts of England that the mistake in our mone-tary system was that we fixed the dollar as so many grains of tary system was that we fixed the dollar as so many grains of gold or so many grains of silver without adopting any method to control the price of the metals; while on the other hand the British, when they established a gold-standard system, fixed a value for gold. The pound sterling existed before Great Britain went on the gold standard. The pound sterling was a pound of silver; a pound sterling of silver was 20 silver shillings. When Great Britain went on the gold standard it did not dispense with the 20 shillings nor with the pound sterling. What it prescribed was that 20 shillings should buy 113 grains plus of gold, and that 113 grains plus of gold should buy 20 shillings or a pound sterling; and so the pound sterling became approximately \$4.87 in our money because we established our dollar as 371½ grains of silver or 23.22 grains of pure gold.

our money because we established our dollar as 371¼ grains of silver or 23.22 grains of pure gold.

I do not wish to discuss the question of \$35 gold; however, if our dollar would buy 23.22 grains of pure gold, that made gold worth \$20.67 an ounce; and as it will now buy only 13.714 grains of gold, gold is certainly worth \$35 an ounce in our money, whether you want it to be worth that or not. I take it that our Government in buying gold at \$35 an ounce is just simply saying that American people have to pay \$35 an ounce for gold because their dollar will buy only 13.714 grains of pure gold. Great Britain fixed gold at \$20.67 an ounce in our money by buying all gold at that price and selling above such price.

at that price and selling above such price.

I don't know what would have been the results when Great Britain fixed the value of gold at \$20.67 an ounce if no other country had joined in that ratio and that program. But as a matter of fact, the British Government at that time was so powerful financially that the United States adopted the same program, and, as I recollect, practically every other country did. And as gold really has no value, or very little intrinsic value except for monetary uses, if great governments would not pay any more than \$20.67 an ounce, then that was all it was worth. If you should demonetize gold, or partially demonetize it, as has happened to silver throughout the world, I venture to say that gold would not be as valuable a metal as iron. I doubt if the price would be anywhere near the price of copper. The remnant of its value would be for rings, and platinum has taken its place for that. There are a great many teeth to fill, but I doubt if that would consume much gold. And so I say that governments have fixed the value of gold because when they refused to pay more than so much for gold for monetary purposes they fixed the value.

It is true, undoubtedly, as Mr. Leon says, that we can never have ever the says of the says, that we can never have every says of the says

It is true, undoubtedly, as Mr. Leon says, that we can never have a sound international monetary exchange except by agreement of at least the powerful commercial governments of the world. He has already illustrated that so clearly by showing what happened when France fixed the ratio of silver at 15½ to 1, and Great Britain fixed it at 16 to 1. Silver was more valuable in France, and the same thing happened in the United States because our country was denuded of silver until about 1835, by reason of that same difference of ratios.

# SILVER QUESTION PRIMARILY MONETARY

The silver question, like the gold question, is primarily a monetary problem. I emphasize that because we are constantly faced with the charge by intelligent people that we are simply attempting to aid the miners of this country and nothing else. I have been charged with being interested in silver mines. Well, of course, that isn't true. I hope I am interested in copper mines. The only difference in the two questions is that gold is universally recognized as a monetary problem while the silver question is too generally looked upon as a commodity problem. There is no reason for drawing such a distinction. It is true that both metals are commodities. It is equally true, however, that the primary value extended to each metal is its use for monetary nurseas. commodities. It is equally true, however, that the primary value attached to each metal is its use for monetary purposes. Sixty-five percent of all gold produced has been used for monetary purposes, while only 35 percent has been used in the arts and sciences. Seventy percent of all the silver ever produced has been used for monetary purposes while only 30 percent of such production has been used in the arts and sciences. Deprive gold of its monetary use and the metal would not be as valuable as fron. Deprive silver of all monetary use and it will not be as valuable as copper. It is true that both gold and silver are commodities, but why have they been selected from all commodities from the beginning of history to be used as money? Because both have all of the

have they been selected from all commodities from the beginning of history to be used as money? Because both have all of the necessary characteristics of universal money. They are both rare minerals. They never have been, and in the nature of things never will be, found in large quantities. Their production occurs generally throughout the world. The average annual production of each metal over average periods of time is remarkably uniform, and the ratio of the production of such metals to each other has been eachly uniform through the area. been equally uniform over average periods down through the ages. Both of the metals provide compact, handy, substantially indestructible coins. But above and beyond all of these peculiar qualities and characteristics the fact that such qualities and characteristics have been recognized by all peoples for ages and have

acteristics have been recognized by all peoples for ages and have been used by them as money is the strongest reason for the continuance of the use of such metals as money.

There are today a few theorists who argue that metallic money or metallic monetary reserves are absolutely unnecessary to sound monetary systems. Practical statesmen, experienced businessmen, and even the poor unfortunate who lost his savings through the failure of a bank have no faith in the managed-currency theory of these idealists.

#### SOUNDNESS OF CURRENCIES STILL MEASURED BY GOLD RESERVES

There is no gold standard today, nor is there a silver standard. And yet every government and all of its financiers and monetary experts are gold conscious. They measure the value and soundness of a currency issue by the amount of gold the government has in its reserves or has the power to obtain through loans, commerce, or trade. Through a gentlemen's agreement between the United States, Great Britain, and France, France was permitted to depreciate her currency an additional 30 percent, while the United States and Great Britain would not further depreciate. How depreciate? Depreciate with regard to what? Gold, of course. The currencies of the United States, Great Britain, France, Italy, Holland, Belgium, Switzerland, and other countries are managed currencies. But their issue is not unrestricted and subject solely to the intelligence or homesty of a manager and the capacity of printing presses. These currencies are managed so that issues may

printing presses. These currencies are managed so that issues may be restricted within limits of potential redemption in gold.

At the London Conference in 1933, I had the honor to present a resolution on behalf of the United States which had been approved by the President, declaring that it was the sense of the 66 governments represented at the conference that each of the governments should return to the gold-standard measure of international are should return to the gold-standard measure of international exchange as soon as practicable, each government determining for itself when it should become practicable and the gold ratio. It must appear conclusively evident that great commercial govern-ments intend to return to the gold-standard measure of international exchange.

tional exchange.

I wish to call your attention to the fact that we did not use, in that resolution, "return to gold standard," because the term "gold standard" is quite indefinite; in fact, there were a number of different kinds of gold standards, but this meeting of nations—66 governments—was interested in the establishment of a gold-standard measure of exchange as between themselves. It is even possible for a government to have two standards of currency. It is very unfortunate when they do. It is much better that all the currencies of a government be tied to the international-exchange base. So we used the words "gold-standard measure of exchange." And that resolution was unanimously adopted.

that resolution was unanimously adopted.

This can only be accomplished by establishing a fixed value for the currency in relation to gold; that is, that such currency will purchase a fixed amount of gold for the purpose of settling international trade balances, and that the value of gold be stabilized.

# SETTLEMENT OF INTERNATIONAL BALANCES

I call attention again to the limitation upon gold for the settlement of international trade balances. There may be a question as to whether there is sufficient gold in the world to safely constitute reserves against issues and at the same time settle international balances. It is far better, if it cannot be used for both purposes, that it be used as a stabilizer of exchanges in the settlement of international balances. Silver exchange can be used in the settlement of international trade belonger with many countries and in ment of international trade balances with many countries and is the best currency.

If this sentiment be the sentiment of the world, we may safely discontinue consideration of the so-called non-metallic-managed

But I am here at your invitation to discuss the silver problem. I again assert that the silver problem, like the gold problem, is a monetary problem. I have asserted that the same characteristics

and qualities which apply to gold as an ideal money and base apply equally to silver. Many people have been taught to fear silver on the theory that there are unlimited quantities of it and that if we use it as money it will flood our country, debase, cheapen, and destroy the integrity of our monetary system. Well, what are the facts? The estimate of the Bureau of the Mint of the total production of Told in the world is 1180 334 181 curves. tion of gold in the world is 1,189,324,181 ounces. According to the same statistics the production of silver in the world since the beginning of time has been approximately 15,913,880,715 ounces.

RELATIVELY STABLE RATIO OF RARITY OF GOLD AND SILVER

It will be understood, of course, that there has been a tremendous loss of both of those metals during the centuries: Lost at sea, lost in the ground, hidden and never found, lost in fires—so there isn't that much gold or that much silver in existence today. I am attempting to show you that silver is comparatively as scarce as gold; that there is a ratio of rarity in these two metals that has come down through the ages. I do this to refute the unfounded propaganda and ignorant impressions which lead people to believe

that there is an unlimited quantity of silver somewhere.

But let us get down to more recent records taken from the statistics of the Bureau of the Mint, Treasury Department of the United States:

SILVER AND GOLD PRODUCTION OF THE UNITED STATES FOR 1935

Silver, 45,924,454 ounces.

Gold, 3,609,283 ounces.

It will be observed that the ratio of production of silver as to gold is about 13 to 1; that is, in 1935 in the United States. Now let us compare the production of silver and gold throughout the whole world for the year 1935. These are world statistics that I am giving you now and they, again, come from reports which are very accurate:

Silver, 215,949,585 ounces. Gold, 30,001,209 ounces.

so the ratio of production throughout the world for that year (1935) was 7.19 to 1—7.19 ounces of silver to an ounce of gold. Now let us see if there is any particular change in the following year of 1936—the last year for which we have complete records. According to the records, the production in the United States for that year was as follows:

Silver, 63,812,176 ounces. Gold, 4,357,394 ounces.

The ratio of production is 14.65 to 1. The records for that year as to the world's production in silver and gold are:

Silver, 247,576,000 ounces. Gold, 34,910,000 ounces.

The ratio of production of silver to gold throughout the world for 1936 was 7.09 to 1. It is obvious that in spite of the ratio of production of silver to gold throughout the Nation increasing, throughout the world it is decreasing. If there is any fear of overproduction in metal it is gold, and I think after hearing Mr. Leon talking about it we have no fear of overproduction of gold to meet the demands of today.

Although the production of both gold and silver has been greatly stimulated throughout the world by the increase in the price of gold and the purchase of silver by the United States Government, the comparatively small production of both metals is remarkable. For instance, the total value of the world production of gold for 1936, even at the price of \$35 an ounce, amounts to only \$1,221,-850,000. The total value of the silver produced in the world in 1936 was only \$132,552,830. If you will compare that annual production in value with national debts of today and see how long it would take to pay them off if national debts continue to draw interest almost indefinitely—and then if you add State and municipal debts you realize that there is not sufficient gold alone to constitute sound metallic reserves and that it is essential that gold reserves be supplemented with silver. I think it is admitted that it is a monetary fact that when the reserve goes below 10 percent a danger point has been reached, fear commences, panic follows, and there is a crash. I think it is fairly safe to say that economists today agree that a safe reserve should not go below 10 percent.

RATIO OF SILVER TO GOLD PRODUCED IN UNITED STATES DECREASING

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Now let us take in the United States, the production of gold and silver, as indicated, was about 14.65 to 1 in 1936; it was about 13 to 1 in 1935. As a matter of fact, the proportion of silver is decreasing.

Furthermore, the latest records we have of the world's production of gold and silver show a ratio of 7.09 to 1. I used to think, and called attention to the fact, of the total value of gold and silver produced annually. Now it has been estimated that 1,189,324,181 ounces of gold have been produced in the world and that 15 times that amount of silver has been produced. The depletion of that supply has been very large. It is conservatively estimated that at the present time there is in existence 619,494,657 ounces of monetary gold which, at \$35 an ounce, would have the value of \$21,682,313,000. From these statistics and computations there are several facts evident. There is not sufficient monetary gold in existence to serve safely as a monetary basis for all of the governments engaged in foreign commerce. It is also evident that there is no danger of an oversupply of silver in the world; that silver possesses all of the characteristics and qualities essential to money that are possessed by gold; that if currencies are to be managed on a metallic base, it is essential that silver be fully Furthermore, the latest records we have of the world's producremonetized and its natural ratio with gold restored, and that silver be used to the fullest extent in support of the gold standard

silver be used to the fullest extent in support of the gold standard base and for domestic currencies.

I may pause there for the purpose of stating that while I agree with Mr. Leon on bimetalism, that as a legislator who for 24 years in the Senate has met many discouraging votes, who realizes how small is the representation of the western country in Congress and that we had better move in all these matters modestly, slowly, and step by step, I am willing that there be established throughout the world a gold standard measure of international exchange. I am willing, for the time being, that the relationship of silver to gold be established also for the purpose of coinage and for the purpose of reserves. However, before we start considering an international ratio for gold and silver, if present prices of the metals is to be a factor, we must do something to overcome discriminations that are and long have been thing to overcome discriminations that are and long have been destroying the monetary value of silver in relation to gold. While today the world's production of silver as related to gold is less than 16 to 1, the price ratio today is about 70 to 1.

PRESENT WORLD-PRICE RATIO UNJUST DISCRIMINATION AGAINST SILVER

PRESENT WORLD-PRICE RATIO UNJUST DISCRIMINATION AGAINST SILVER

I am urging that governments cease by discrimination and legislation the destruction of the monetary value of silver. I am asking the United States Government, who unwittingly followed Great Britain in the destruction of the monetary value of silver, to continue with its efforts to restore confidence in silver and aid in its restoration to its rightful position as a monetary metal. I do not ask that our Government or any other government at the present time go to the free and unlimited coinage of silver at the ratio of 16 to 1, or any other ratio to gold. I have explained my reasons for not asking this at the present time. I know that it is a conservative ratio based upon production, but I also realize that today by the discrimination against silver the ratio of value of an ounce servative ratio based upon production, but I also realize that today by the discrimination against silver the ratio of value of an ounce of gold to an ounce of silver is over 70 to 1. This unjust discrimination in value cannot be remedied at once. It can never be remedied by any action of the United States Government alone. It will, however, in my opinion, come about through the initiative and leadership of the United States and the gradual restoration of the use of silver to its natural function in all countries. The demand created by this use will take care of the price of silver

### FACE FIGHT FOR REPEAL OF SILVER PURCHASE ACT

But we are faced with a fight in the next session of the Congress of the United States by those who are opposed to the use of silver in any form or in any manner as money. They seek to repeal the Silver Purchase Act and to induce the President to abandon the purchase of American silver at 77.57 cents an ounce, which latter purchases he is now making because of the London expression. which latter purchases he is now making because of the London agreement. These proponents of the repeal of the legislation contend that the Silver Purchase Act has been a complete failure, that the Government has been buying something that is worthless, that it will lose money on the transaction, that it has accomplished no good, that the miners are being paid a bonus, and that the act should be repealed and purchase under the London agreement discontinued. Let us see what the results are under the Silver Purchase Act. As chairman of the Special Committee of the United States Senate Upon the Investigation of the Administration of the Silver Purchase Act, I have just received the following report from the Secretary of the Treasury:

"(1) The additional amount of silver needed on June 19, 1934, and June 30, 1937, to make the proportion of silver in the stocks of gold and silver of the United States equal to one-fourth of the monetary value of such stocks is estimated to have been as follows:

	Value at \$1.29 per ounce	Ounces
June 19, 1934	\$1, 714, 000, 000	1, 329, 000, 000
June 30, 1934	1, 719, 000, 000	1, 333, 000, 000
June 30, 1937	1, 554, 000, 000	1, 202, 000, 000

It would seem strange that it requires as much silver to be purchased now as it did when the act started. That is caused by reason of the fact that we have accumulated so much additional gold in our reserves of the United States.

Now I will give you a few other figures here and show you how it came about. This is silver:

"(2) Silver acquisitions through June 30, 1937:

Ounces	Dollars	Cost per ounce (cents)
151, 834, 000	112, 705, 000	74. 2
113, 015, 000	56, 520, 000	50.0
015, 828, 000	589, 773, 000	58.1
280, 677, 000	758, 998, 000	59.3
	Ounces 151, 834, 000 113, 015, 000 015, 828, 000 280, 677, 000	151, 834, 000 112, 705, 000 113, 015, 000 56, 520, 000 015, 828, 000 589, 773, 000

"(3) Eilver certificates in circulation:	
June 30, 1934	\$401, 456, 000
June 30, 1937	1,078,071,000

"Silver dollars in circulation:

June 30, 1934\_ June 30, 1937\_ 38, 046, 000

"In other words, there has been very little increase in the circulation of silver dollars, but the silver certificates that have been issued have practically doubled our circulation of silver.

"Increase in silver dollars and silver certificates from June 30, 1934, to June 30, 1937, \$684,648,000.

"The cost value of silver yet to be monetized, which was held by the Treasury on June 30, 1937, amounted to \$373,978,297.

"(4) Newly mined domestic silver was purchased until April 10, 1935, at 64.64 cents per ounce, from April 10, 1935, to April 24, 1935, at 71.11 cents, and since that time at 77.57 cents per ounce.

"Nationalized silver has been purchased at 50 cents per fine ounce.

Nationalized silver has been purchased at 50 cents per fine office.

"The New York market price of silver during the period since the passage of the Silver Purchase Act ranged from a low of 44 cents to a high of 31 cents per ounce. During the period from February 1 to June 30, 1937, the New York market price of silver was approximately 45 cents per ounce."

I will state that the price of 81 cents per ounce only lasted a very short time; in fact, it dropped below 77 cents an ounce in 1 week's time, but during the period when it was rising to 81 cents an ounce the President of the United States very graciously continued to raise the American price and raised it to 77.57 cents an ounce, where it now stands. The Government purchased 1,280,677,000 ounces of silver at an average price of 59.3 cents an ounce. It has sold, or has the power to sell all such silver so purchased in the form of currency at \$1.29 an ounce. When we say that the Government circulated silver currency at the value of \$1.29 an ounce, it means that it pays its debt with the silver dollar and it has only 0.77 ounce of silver in it. The Government, therefore, in circulating silver currency, is settling its debts with silver at a value of \$1.29 an ounce. The Government so far has made a profit of \$95,473,900 under the Silver Purchase Act.

RELATIVELY SMALL EXPANSION IN CIRCULATING CURRENCY

#### RELATIVELY SMALL EXPANSION IN CIRCULATING CURRENCY

RELATIVELY SMALL EXPANSION IN CIRCULATING CURRENCY

The Government has made more money out of the American miners' silver than the American miners have, and has taken none of the risks that generally result in losses. It has permitted an expansion of our currency to the extent of \$684,648,000 with a power to further extend it by the issuance of an additional \$373,978,297. This constitutes an increase of approximately 20 percent in our circulating currency. Now it is charged that this is inflation. Certainly it is not a dangerous inflation.

It is admitted that 90 percent of our circulating media consists of checks and drafts and so forth based upon deposits. An increase of 20 percent of the 10 percent of our circulating media is not a dangerous inflation. As a matter of fact, at the time that this was done the credits were frozen and even later when it was tight it was the duty of our Government to temporarily, at least, expand its circulating currency. This new currency is sound. It is not only secured by a silver dollar against every silver certificate issued and has at the present world price an intrinsic value of 34.6 cents, but the certificate is further secured by the seigniorage—being the silver going to the Government as a profit. The circulating value of this silver reserve at the present world price of silver amounts to approximately 85 cents an ounce. world price of silver amounts to approximately 85 cents an ounce. It is by reason of the fact that silver has some intrinsic value that a lump of it, like a lump of gold, can be taken anywhere in the world and without the stamp of any government upon it purchase food, clothes, and shelter—that it constitutes an ideal

currency and monetary reserve.

But the opponents state that if the price of silver falls below But the opponents state that if the price of silver falls below what the Government paid for it the Government will lose money. In the first place, the Government needs the silver for currency purposes and does not want to sell it. In the next place, the price of silver is not going down if our Government continues to recognize it as full legal tender money; but, on the contrary, the price is going up by reason of the natural demand for it.

The average price paid by the Government for all the silver that it purchased prior to the passage of the Silver Act of 1934 was 99 and a fraction cents an ounce. The average price paid since the enactment of the Silver Purchase Act, including nur-

since the enactment of the Silver Purchase Act, including purchase of American silver, has been 59.3 cents an ounce. The world price of silver for over 20 years prior to the panic of 1929

world price of silver for over 20 years prior to the panic of 1929 averaged around 60 cents an ounce.

The Silver Purchase Act has enabled the Government of the United States to stabilize the currency of China and to permit her to open up her mints and again circulate silver coin by furnishing China a dollar reserve in the United States through the purchase of Chinese silver. This accomplishment alone would have justified the act. The Treasury Department has also, through the power of the Silver Purchase Act, stabilized the currency of Mexico, opened up its mints for the coinage of silver, and its circulation through Mexico. This same opportunity is open with regard to all the Latin-American republics.

Of course, Great Britain and other countries as well, who have

Of course, Great Britain and other countries as well, who have not a supply of silver nor the credit with which to purchase silver, are opposed to our silver policy and have been doing everything to discredit it. The British Government closed the mints of India for the purpose of demonetizing and depressing the silver coins of India. The British Government, through its control of India, was continuing her sale of hundreds of millions of ounces of silver coins without regard to quantity or price until the adortion of the Longitude of the Lo without regard to quantity or price until the adoption of the London agreement. All these steps were taken by Great Britain for

the purpose of controlling the finances of India. I am not criticizing Great Britain, but I am making statements to show how natural is her antagonism to our silver policy, intended for the restoration of the monetary character of silver throughout the world. Many of us in this country are still prone to worship at the altar of the Bank of England. Well, maybe it is better that our bankers should. They certainly made a mess of our monetary and financial system during a period of time when they were in complete control of the monetary policy of our Government.

I am satisfied that the Silver Purchase Act should be sustained and that any attempt to repeal it at the next session of Congress

and that any attempt to repeal it at the next session of Congress will meet with defeat. The London agreement under which the President is now paying 77.57 cents an ounce for American-produced silver expires on December 31, 1937. The President will, of course, continue to purchase American silver under the Silver Purchase Act if he has not the power to purchase it further at 77.57 cents an ounce by reason of the London agreement. There has been grave doubt expressed as to whether the President's authority to purchase American-produced silver at such price as he may fix and above the world price does not terminate with the London agreement on December 31, 1937. That, of course, presents

London agreement on December 31, 1937. That, of course, presents a grave situation.

The American producers of silver for nearly 4 years have enjoyed the price of 77.57 cents an ounce, which is almost necessary in the production in most mines. It will be quite unfortunate if that should terminate on the 1st of the coming January and the American miners should be relegated to the foreign price which at the present time is around 45 cents an ounce. It would very seriously affect employment in the West.

#### IMPORTANCE OF PRESENT SILVER PRICE TO WEST

I have recently read statements in the press purported to have been made by a distinguished United States Senator for whom I hold great admiration and friendship to the effect that silver could be produced for 16 cents an ounce. As a friend, I wish to assure him that he could raise the greatest Presidential campaign fund ever obtained by furnishing the formula for those whose duty it to make mines pay dividends. This subject was carefully conis to make mines pay dividends. This subject was carefully considered in 1922 by a special committee of the United States Senate called the Gold and Silver Investigation Committee, of which exsenator T. L. Oddie, of Nevada, was chairman, and of which I was a member. Special experts of the committee, after study of the

Senator T. L. Oddie, of Nevada, was chairman, and of which I was a member. Special experts of the committee, after study of the costs of every mine producing silver in the United States, gave their opinion that the average cost of production of an ounce of silver was 60 cents. It is, of course, difficult to estimate the exact cost of production of an ounce of silver because there are very few mines in the United States, or for that matter in the world, that produce silver metal exclusively. Over 50 percent of all the silver produced in the world is as a byproduct of the production of other metals such as gold, lead, copper, and zinc.

In the United States two-thirds of the silver produce is as a byproduct of the production of other metals. In estimating the cost of the production of silver as a byproduct, the total production of all the metals involved is taken and the proportionate cost of the silver production is charged. The Senator does not realize that many copper mines, many lead mines, many zinc mines, in fact, many gold mines, could not operate except for the value of the silver content of the ores. The great Anaconda Copper Mines at Butte, Mont., are affected materially in their capacity of production by the price of silver, although the silver content of the ore is small. Take the Nevada Consolidated Copper Mines in Nevada as an example. The company's copper deposits are as cheaply worked as any in the world and yet the copper content of the ore is very small. That company could not make a profit on copper below 7 cents a pound. Such was the price of copper during the depression. These copper ores, however, so I am informed by the company's manager, contain about 8 ounces of silver a ton. The silver at 25 cents an ounce, which was the price during the depression, added only \$2 a ton to the value of all the ore. With company's manager, contain about 8 ounces of silver at on. The silver at 25 cents an ounce, which was the price during the depression, added only \$2 a ton to the value of all the ore. With silver at 77.57 cents an ounce, which is now being paid for American-produced silver, the value of the silver alone would be approximately \$6 a ton. These mines could continue to run with copper at 7 cents if silver was retained at 77.57 cents per ounce. If silver returns to 25 cents an ounce and copper to 7 cents a pound, which is possible, the mines would then again return to a 15-percent-capacity operation.

Take the great silver-lead-zinc deposits at Pioche, in southeast Nevada. These great deposits would not pay to operate with lead and zinc below 5 cents a pound and silver below 50 cents an ounce. The Government has just assisted in transmitting cheap power to this mining district from Boulder Dam for the operation of these deposits. The Government will probably lose what it has put into this project if lead and zinc return to their former price of below 5 cents a pound and American-produced silver is

It has put into this project if lead and zinc return to their former price of below 5 cents a pound and American-produced silver is allowed to go down to the world price of 45 cents an ounce.

The wisdom of the President in holding American-produced silver at 77.57 cents an ounce has taken off the relief rolls and placed in the highest class of normal employment over 400,000 people. He can't afford to take the risk of putting them back on the relief rolls.

The ignorant and prejudiced opponents of silver contend that the President by paying the American producer of silver 32 cents an ounce more than the foreign producer receives is paying a bonus to the American miner. That is, of course, absurd, as the President is only allowing the American miner 77.57 cents an ounce out of the \$1.29 the Government receives for circulating this silver as money. Even if it were a bonus, it would not

exceed \$15,000,000 annually. Fifteen million dollars annually takes 400,000 people off the relief rolls. Does anyone know of any cheaper or more effective relief work that has been done by our Government? How does it compare with the billions of dollars in bonuses that have been granted to the manufacturers under the policy of keeping men and women employed in factories? How does it compare with the billions of dollars bonus that have been granted to the agriculturists for the purpose of raising the price of their commodities? How does it compare with the bonus granted to the producers of sugar and cotton? How does it compare with the relief work done by the W. P. A.? I am not complaining about relief work done by the W. P. A.? I am comparing the high character and high standard and permanent benefits to the whole country of the relief work accomplished in employing miners. Unemployment is even now increasing in the West by reason of the fear that the President is going to reduce the price of American-produced silver after December 31.

#### PREDICTS CONTINUANCE OF PRESENT PRICE

I wish to assure you that the President of the United States has I wish to assure you that the President of the United States has no desire to decrease the price of American-produced silver. I think now that he understands the silver problem quite well. I had the pleasure of talking with him on his train during both of his campaigns. I possibly was of some assistance to him in advising him in regard to mining. In his speech at Denver during the last campaign he stated that he was entirely satisfied with the effects of both the gold and silver policies. He has gone further than that. He has in his press statements held that there must be a reasonable price, not only for agricultural products, but for our mineral products.

On May 12 there was pending the Emergency Farm Mortgage Act. That was May 12, 1933. That was the first credit act we passed. There was offered an amendment authorizing the President of the United States to fix the gold content of the gold dollar, but he could not reduce the gold content below 50 percent. He has acted under that act. At the same time, in that act it is provided that the President of the United States may fix for coinage purposes the ratio of gold and silver.

ratio of gold and silver.

We have a subsequent act which I offered myself, in which it stated emphatically that the President may charge a difference or a higher seigniorage for the miniting of foreign silver than domestic silver. The question I submit to you is whether or not, irrespective of the London agreement, the President has not the power to coin American silver and to fix the seigniorage price for such coinage. I believe that he has. I don't believe that the London agreement gave him the power to coin American silver and fix the seigniorage for such coinage. He had to find the authority in existing law. He found it and acted. If that be true, then the termination of the London agreement only releases the President from the moral obligation with those other governments to purchase our silver. There will still be the moral obligation to the people of this country to maintain adequate currency and an adequate monetary system and to so arrange the seigniorage that the Government will not get all of the silver or get so much of it that it will destroy the mining industry of this country.

industry of this country.

I am satisfied that the President has in mind this moral obligation. I am confident that he has the legal authority to act. I tion. I am confident that he has the legal authority to act. I believe he will tell the ignorant and prejudiced and seifish on both sides that the American price of silver has worked satisfactorily without injury to anyone; that he does not intend to take up the discussions for the raising and lowering of the price; and that he intends to maintain it indefinitely at 77.57 cents an ounce or until the world price of silver reaches such price, at which time he intends to raise the price of American-produced silver above the world price. I hope he will realize that the sooner he makes this announcement the sooner the depression in mining which is now under way by reason of fear caused by adverse propaganda will cease. I do not think that those who risk their money in mining industries and those who toil under the ground and in the mills and smelters need have fear.

Mr. KING. Mr. President, I was called from the Chamber before the Senator from Nevada [Mr. PITTMAN] took the floor, and returned just before he concluded his remarks. I regret not having heard his entire statement, but I shall avail myself of the opportunity tomorrow morning when the Record appears, to examine the same, and I have no doubt that I shall approve of his statements. However, if I correctly understand the Senator in the concluding part of his address, there was an implied criticism of the President and the Department of the Treasury because of their failure to announce a future policy with respect to the purchase of silver. Something was said in regard to the expiration of the so-called London Agreement, and I assume that the Senator made some observations concerning the fear entertained by some persons that the purchase of domestic silver at the price now fixed. would terminate on the 31st day of December next.

We must recognize the heavy burdens resting upon the President and upon the Secretary of the Treasury; and matters relating to our fiscal policy are of supreme importance and call for most serious consideration. I do not feel that there should be any criticism of the administration because

no announcement of its future policy with respect to silver has been made. I think the country is warranted in relying upon existing statutes which in themselves will guide the administration and determine its course.

The monetary policy of the United States is not only important to the American people but it indirectly, if not directly, affects other nations. It would be highly advantageous to the American people and, in my view, to the people of other countries if an international policy with respect to silver for monetary purposes could be agreed upon. I have no doubt that if the leading nations of the world should agree to withdraw their debased coins and replace them with silver coins 0.900 fine it would prove highly advantageous to all countries and tend to strengthen monetary systems. I appreciate the fact that there are those who believe in fiat money and who would regard gold and silver as mere commodities useful only in the arts. However, I believe there is a growing feeling in favor of a metallic base consisting of gold and silver upon which to rest the credits and currencies of the world. There is an increasing demand for gold for monetary purposes, and, in my opinion, if a proper course is pursued by this and other nations, that demand will be widened so as to include silver.

I admit that for a number of years bimetallism was a term which was sought to be discredited, and the gold standard was assumed to be invulnerable to any attack. But changes in public opinion with respect to currencies are taking place, and in many countries there is a growing sentiment in favor of a wider use of silver for monetary purposes.

The Silver Purchase Act resulted from conferences between representatives of various countries. Several years ago a number of Senators and Representatives and persons interested in monetary questions conferred with representatives from various countries in Europe and Asia concerning the rehabilitation of silver, and some of us were led to believe that if the United States took the lead in restoring silver to its proper place, they would join in the program. We were given to understand that the people of a number of countries, particularly those in Latin America, would welcome the adoption of any plan that would result in the withdrawal of debased currency and in a wider use of silver for all monetary purposes. In the light of these assurances efforts were made to secure legislation, not in the interest of silver but in the interest of the American people and, for that matter, the interest of the people of the world, legislation which would be calculated to restore silver to its proper place in the monetary systems of the world. Thereupon the Silver Purchase Act was passed. Our Government has in good faith carried out the terms of the act and I am sure has endeavored to cooperate with other nations for the purpose of giving to silver its proper monetary status and for the purpose of improving and stabilizing monetary

It is to be regretted that there has been so much confusion in the world concerning monetary policies which have in many instances brought about unfavorable reactions, if not disastrous consequences. The Senator from Nevada referred. as I understand him, to the so-called London agreement which terminates on the 31st of December, and I agree with his position that the termination of such agreement will not affect the policy of our Government with respect to silver. I do not think that the London agreement limits the authority of our Government in the purchase of silver; nor does it in any way affect the Silver Purchase Act or the provisions of the so-called Thomas amendment found in the Agricultural Adjustment Act. With respect to the latter act, there is a provision in the same, written by Senator Wheeler and myself, authorizing the President to open the mints of the country to free and unlimited coinage of silver and gold and to fix the ratio between the two metals. Obviously, this provision confers sufficient authority upon the President to fix the ratio between the two metals and to open the Government mints for the coinage of the same. In fixing the ratio between the two metals a relationship in terms of money must be established; that is, the value of gold having been fixed, in order to establish a ratio between the two metals, then the price of silver would have to be fixed.

It seems to me that the President would have the authority under this provision of the statute to fix the price of silver at 77 cents an ounce or some other figure.

The Silver Purchase Act contains mandatory provisions which require the Secretary of the Treasury to purchase silver until one-fourth of our monetary stocks consist of silver, or until the price of silver reached \$1.29 an ounce. Under this act the price of domestic silver has been fixed at 77 cents an ounce. There is no provision in the act which limits the price of silver to 77 cents an ounce. That price might be continued until one-fourth of the monetary stocks were silver. It is obvious that the price of silver will exceed 77 cents an ounce if the terms of the Silver Act are adhered to. In other words, more than a billion and a quarter ounces of silver must be purchased under the terms of the Silver Act in order that one-fourth of the monetary stocks shall consist of silver. However, if under the acquisition of silver, either domestic or from other countries, the price should reach \$1.29 an ounce, then further purchases of silver would not be required.

As I have stated, I am not critical of the administration because its future policy respecting silver purchases has not been announced. I believe that in good faith the Silver Purchase Act will continue to be carried into effect, and that within a reasonable time such announcements as the situation calls for will be made by the President or the Secretary of the Treasury. I do not believe that those engaged in mining operations in our country need feel concern as to the policy of the Government with respect to silver purchases. As indicated, I believe that the Treasury will continue to purchase domestic silver at 77 cents an ounce and that in the not-distant future, in the carrying out of the terms of the Silver Purchase Act, the price of silver will exceed 77 cents an ounce. I have no gloomy forebodings with respect to the silver situation. I cannot help but believe that sooner or later the world will recognize the necessity of improving and strengthening its monetary system, and to bring about that result, will give to silver that high and honored position which for centuries it occupied.

It was indicated by Mr. J. Maynard Kynes a few years ago that the day would come when gold would be a redundant currency and its use for monetary purposes discontinued. That view I do not accept. And, as I have indicated, I believe that the world sooner or later will return to bimetallism, and silver and gold yoked together will be used as a basis for the currencies and credit of the world.

Mr. President, I have received many letters during the past few days in which some apprehension was expressed as to the future policy of our Government concerning silver. Today, I received a letter from the president of the Utah State Farm Bureau Federation emphasizing the interest that farmers have in our present silver policy, and appealing for a continuation of such policy. A similar letter was received from State Senator E. M. Royle, who is secretary of one of the labor unions of the State. Speaking for his organization, he urged that no change be made in the present policy with respect to silver. The secretary of the Chamber of Commerce of Salt Lake City has also written me a letter, speaking for that organization, in which a continuation of the silver policy is earnestly urged.

As indicated, I have received many letters from businessmen, from representatives of labor organizations, from farmers and agricultural organizations, and from representatives of the mining industry. These letters indicate the fear, which is felt by many, that the present policy of the Government with respect to the purchase of silver for monetary purposes will be changed. These letters indicate that the matter discussed is one of importance and is connected with the welfare not only of the mining industry but of agriculture and business in all of its forms.

Mr. President, I have been prompted to submit these few remarks because of the statements of my friend from Nevada [Mr. Pittman].

Mr. President, I take this opportunity to ask permission to have inserted in the RECORD an address which I delivered at a meeting of the American Mining Congress at Salt Lake City, Utah, on the 9th of last September. I do not recall ever having asked to have inserted in the RECORD an address which I delivered outside of the Senate Chamber.

As Senators may know, the American Mining Congress is an important organization interested in the development of the mineral resources of our country. It is not a local organization but it is Nation-wide, and in its various meetings and congresses questions of importance to the industry and, indeed, to the Nation as a whole are considered.

The Senator from Nevada delivered an able address which he has asked to be inserted in the RECORD. I was invited to address the convention and to discuss particularly the undistributed-profits tax and other phases of our revenue laws which affect the mining industry. I ask unanimous consent that the address may be printed in the RECORD as a part of my remarks.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The address is as follows:

# THE MINING INDUSTRY'S TAX BURDEN (By Senator WILLIAM H. KING)

(By Senator William H. Kino)

The phenomenal growth of our country is largely due to the utilization of its mineral products. Agriculture alone would not have advanced our country to the proud position which it now occupies among the nations of the world. Courage, genius, skill, and capital are required to develop our mineral resources. It is asserted that more than one-half of the total wealth of the United States, directly or indirectly, has resulted from the production and utilization of our mineral resources. Agriculture, perhaps, is the most important industry, but it will be conceded that the second largest industry is that of mining. Statistics show that more than two-thirds of the counties in all States produce minerals, valuable and important for the economic and industrial development of our country.

Though agriculture is the most important industry, during the 5 years 1924 to 1928, inclusive, the taxes paid by the producers of minerals were six times as great as those paid by agriculturists; and it is worthy of note, in passing, that the Federal contributions to the mining industry in all of its ramifications were but a small fraction of the subsidies and benefits derived by agricultural producer from the Federal Government.

ducers from the Federal Government.

I think it is conceded that more than 25,000,000 people are directly or indirectly dependent for their livelihood upon the extracrectly or indirectly dependent for their livelihood upon the extraction and processing of mineral products. It is impossible to estimate the multitudinous uses to which the mineral products of Mother Earth have been put, but it is certain that they enter into almost every field of human activity and are indispensable to modern-day civilization. The slightest reflection will convince the most dubious of the magnitude of mineral production, and the hundreds of minerals which are utilized in nearly every field of manufacture in the production of most of the commodities resulting from the genius and ability of man.

The capital investment in the mineral industries of our country exceeds \$20,000,000,000, and the annual value of mineral products is between \$5,000,000,000 and \$6,000,000,000. It has been stated that the products of mines, including crude oil, amount to more

exceeds \$20,000,000,000, and the annual value of mineral products is between \$5,000,000,000 and \$6,000,000,000. It has been stated that the products of mines, including crude oil, amount to more than 56 percent of the tonnage of revenue freight handled by class I railroads during recent years. These figures do not include the freight resulting from smelters, refineries, and the various building products, such as lime, bricks, etc. The mineral industries are important contributors to the Federal revenues, the taxes paid by them amounting to several hundred millions of dollars annually.

annually.

The address of Governor Blood and Mayor Erwin and others at this congress indicate the importance of the mining industry not only to Utah and the Intermountain States but to the entire

Country.

Utah has produced nearly 6,000,000 ounces of gold, more than 530,000,000 ounces of silver, about 4,000,000,000 pounds of copper, more than 6,000,000,000 pounds of lead, 525,000,000 pounds of zinc, approximately 96,000,000 tons of coal, and 7,000,000 tons of coke. Without boasting, it may be said that Utah, among the States of the Union, is the largest producer of silver, the second in copper and lead production, fourth in zinc, sixth in gold, and twelfth in coal. It is worthy of note that Utah has extensive deposits of coal, hydrocarbons, iron, clay, and many other nonmetallics. It also has unlimited deposits of alunite and oil shales, which, in one county alone are estimated at more than 96,159,000,000 tons. It may be said in no spirit of boastfulness that few, if any, States possess so great a variety of minerals and precious metals. Its may be said in no spirit of boastfulness that few, if any, States possess so great a variety of minerals and precious metals. Its coal deposits are virtually inexhaustible, and its lead, zinc, and copper deposits will command the energies and labors of tens of thousands of persons not only for decades but for centuries.

The economic dependence of Utah—as well as other States in which the mining industry has assumed large proportions—upon the mining industry is recognized by all who are familiar with the industries of our country. Mr. Vandergrift and other specialists in

economic and governmental research in their report of 1931 submitted a statement to the effect that more than 47 percent of the population of Utah is dependent on metal mining, 17.22 percent on agriculture, 13.45 percent on transportation, 10.66 percent on manufacturing, 9.08 percent on coal mining, and the remaining 2.42 percent represents those dependent upon the distribution of commodities commodities.

#### MINING RETARDED BY CERTAIN FEATURES OF LEGISLATION

In view of the importance of the mining industry to the entire country and to practically every industry, justice demands that it shall receive fair treatment at the hands of the Federal Government. It does not ask for subsidies or bounties, but it is entitled to be free from oppressive legislation or unjust or unreasonable restraints. It is needless to say that this great industry is to be differentiated from other industries; there is no reproduction of metallic minerals, and when removed from the earth, neither man nor nature can secure replenishment. It can truthfully be said that minerals are wasting assets; and to the extent that they conthat inner as are wasting assets, and to the extent that they constitute capital as they are removed from the earth, the capital of the producer is diminished. The Government has not, in my opinion, dealt fairly with the mining industry in a number of particulars, especially in the matter of depletion and taxation; and, as I have indicated, factors which should be considered in tax measures have been disregarded, as a result of which the mining industry has not infrequently been penalized. I think it must be admitted that some congressional legislation has retarded mining development and borne oppressively upon those who earnestly and, indeed, patriotically sought to promote the welfare of our country.

#### SECURITIES ACT

In the administration of the Securities Act there has been a lamentable amount of ignorance concerning, or prejudice against, the mining industry and those connected with the same. Standards which may properly be applicable to manufacturing and other industries and activities, but which are foreign to and unrelated to the mining industry, have been forcibly applied to it. The cult of standardization has too many devotees, not only in the Securities and Exchange Commission but in many Federal and bureaucratic agencies. The hazards and risks and well-known uncertainties connected with the development of the mining industry have been ignored, and rules and regulations concerning the organization of ignored, and rules and regulations concerning the organization of mining companies and the sale of their securities have been so drastic and, indeed, in many instances so unreasonable as not only to retard but also to prevent the development of mineral proper-ties. The prospector and the operator have been so hampered and, indeed, coerced that they have often abandoned mining enterprises which would have met with success and added to the wealth of communities and the Nation as a whole. Many patient and untir-ing prospectors and courageous operators who have devoted years of toil and effort in deserts and mountains to discover hidden treasof toil and effort in deserts and mountains to discover hidden treasures are being driven from the mining field. Obstacles interposed by the Government and Government bureaus have made it difficult for persons of limited means to search for and develop mineral deposits; and the policies of the Securities Commission and the attitude of banks, operating under restrictions imposed by the Federal Reserve Board, have in some instances prevented the organization of corporations for mining purposes and the sale of their

The development of mining properties requires capital, and the sale of securities is imperative in mining operations. The restrictions recently imposed upon marginal sales operate to the disadvantage of those of limited means, and tend to force the acquisition of securities of mining properties into the hands of corporations of large resources and individuals of wealth and influence.

# REVENUE ACT OF 1936

The Revenue Act of 1936 dealt a severe blow to the mining industry. Every person familiar with this industry knows the difficulties encountered in obtaining capital. The initial development of this industry is due largely to the energies of the prospector and the small operator who are not in a position to supply the needed capital to equip their properties and to carry forward their development. their development.

their development.

It has been the practice to form corporations in order to obtain funds from the sale of stocks and bonds to carry forward their enterprises. I have indicated the difficulties in meeting the requirements of Government organizations; and now under the undistributed profits tax, additional obstacles are imposed by the Government. If profits are retained, the heavy hand of the Government is laid upon them, and they may not be plowed back for the development of legitimate enterprises. Every person familiar with the mining industry knows that its development largely depends upon the utilization of its net profits. Experience demonstrates that difficulties have been encountered in raising largely depends upon the utilization of its net profits. Experience demonstrates that difficulties have been encountered in raising capital from the sale of stocks and bonds, or otherwise, in order to develop mining properties; and it became important, therefore, to plow back substantially all profits realized from their operations. Under the undistributed-profits tax, one-third of the net income may be taken by the Government. This is an oppressive tax and constitutes a serious obstacle to mining development. It is acknowledged that many mining enterprises experience difficulty in marketing their securities to obtain capital to expand and continue operations; and due to obstacles imposed by the Government there has resulted an abandonment of properties of value and great worth; and this has resulted in depriving many persons of employment, the loss of years of toil by courageous and adventuresome individuals, and the disruption of communities. In manufacturing industries it is recognized that their successful operation has been in part due to the practice (recognized as proper) of devoting net income to the development of the same. But, as I have indicated, the mining industry should be differentiated from other industries, because of its speculative character, and the hazards and risks which are inherent in the mining industry and which are always present.

industry and which are always present.

It has justly been urged that the profits plowed back into mining enterprises be exempted from the undistributed profits tax. There are many reasons to support this view; and I cannot believe that due consideration was given to the effect of this application of the undistributed profits tax to the mining industry.

#### DEPLETION ISSUE

When the next revenue measure is under consideration-and When the next revenue measure is under consideration—and that will probably be during the coming year—it is to be hoped that unjust and oppressive provisions of existing revenue laws which are being applied to the mining industry will be repealed. Certainly, demands should be made that unfair and discriminatory provisions should be eliminated from our revenue laws; and that the provisions relating to depreciation, obsolescence, and depletion should be materially modified, because of their unfair and oppressive character, as applied to the mining industry. However, we may have to fight strenuously to retain even the allowances for depletion which are given to mining companies under existing law. In this connection I wish to quote from a letter of the Secretary of the Treasury dated May 29, 1937, addressed to the President of the United States and contained in the hearings before the Joint Committee on Tax Evasion and Avoidance: before the Joint Committee on Tax Evasion and Avoidance:

#### PERCENTAGE DEPLETION

"This is perhaps the most glaring loophole in our present reve-"This is perhaps the most glaring loophole in our present revenue law. Since 1928 large oil and mining corporations have been entitled to deduct from 5 to 27½ percent of their gross income as an allowance for the depletion of their mines or wells, and the deduction may be taken even though the cost of the property has been completely recovered. Thus in 1936 one mining company deducted nearly \$3,000,000 under this provision, although it had already completely recovered the cost of its

"The amount of the deduction was a sheer gift from the United States to this taxpayer and its stockholders, and the revenue that states to this taxpayer and its stockholders, and the revenue that we lost thereby was \$818,000. Similar annual losses of revenue in the cases of a few other typical companies are \$584,000, \$557,000, \$512,000, \$272,000, \$267,000, \$202,000, and \$152,000. The estimated annual loss of revenue due to this source alone is about \$75,000,000. I recommended in 1933 that this provision be eliminated, but nothing was done at that time; and it has since remained unchanged."

This position takes the contraction of the contraction of the contraction to the contraction of the contraction of the contraction to the contraction of the contraction of

This position taken by the Treasury fails to recognize the true conditions of the mining industry. It seems to me that justice demands that allowances should be made for depletion as a matdemands that allowances should be made for depletion as a matter of right, and should not under any circumstances be considered as subsidies or privileges which may be withdrawn at the will of any particular administration. Even the the provisions of existing law in relation to depletion are not sufficiently liberal and are therefore unjust; they were designed to provide mining companies some relief for the wasting of their capital, but cannot, in any sense, be regarded as granting a subsidy or a bonus. Obviously mineral deposits are capital, and as they are withdrawn, there is a pro tanto destruction of capital; and it is likewise true, in part at least, with respect to the matter of obsolescence.

The miraculous mechanical changes that are taking place in the

The miraculous mechanical changes that are taking place in the mining industry demand the annual scrapping of costly machinery to meet the technological developments in the industry. This results in increased capitalistic destruction, and compels further capitalistic investments to meet the situation. Yet, because of the capitalistic investments to meet the situation. Yet, because of the unfamiliarity of many of our tax administrators with mining problems and mining conditions, it is necessary to be prepared at all times to show the true facts and actual conditions of this most important industry. While this recommendation of the Treasury was not acted upon at the last session of Congress, it was merely deferred, and it will undoubtedly be pressed upon us in connection with proposed legislation in 1938.

Moreover, there have been attempts made from time to time to take away the exemption which has been in the revenue acts ever

take away the exemption which has been in the revenue acts ever since 1916 of dividends paid out of pre-March 1, 1913, appreciation of earnings. To eliminate this exemption would seriously penalize many of our mining companies which have not been able to dis-

many of our mining companies which have not been able to distribute profits which represent appreciation in value of their properties accruing prior to March 1, 1913.

The stamp-tax provisions of existing law also discriminate harshly against mining companies. In the case of sales of stock of no par value, the tax is computed at 4 cents per share, whereas in the case of stock with a par value the tax is not computed upon the share, but upon the certificate, which may represent a great many charge and therefore he which less a property of the control of the control of the certificate. sent a great many shares, and therefore be much less. mining stocks are of no par value, and sell for very small amounts, the tax in some instances is greater than the actual sales price of the stock itself. I feel that this is a condition which certainly ought to be remedied by the Congress.

# REVENUE ACT OF 1937

In our recent revenue act (the Revenue Act of 1937), in a laudable effort to impose restrictions upon tax dodgers and tax evaders, I feel we went too far in our legislative provisions dealing with this subject, for, as written, many of these very strict provisions

will affect not only the tax dodgers and the tax evaders, but many of our mining corporations engaged in legitimate and beneficial activities. I refer especially to the provisions of the Revenue Act of 1937 imposing a flat 75-percent rate upon personal holding companies. Many of our small mining companies which have contributed so much to the development of our State, as well as our country, may fall within this arbitrary definition of personal holding companies as defined in our revenue act, and will be subject to this 75-percent rate upon the corrupts recessory to be subject to this 75-percent rate upon the earnings necessary to be retained for the development of their enterprises.

retained for the development of their enterprises.

There are inequities in the provisions of the law relating to the capital-stock tax and profits tax which should be remedied. Under existing law a corporation may declare an original value of its capital stock which is largely fixed by an estimation of future expected profits. In particularly hazardous enterprises, such as mining, it is impossible to predict profits over a series of years, and to do so penalizes mining companies in a very unjust manner. To force the mining industry to be bound by a value declared in a given year cannot be defended, and for that reason I have contended that corporations should be permitted to declare their value for capital-stock tax purposes at least on a biannual basis.

#### UNDISTRIBUTED-PROFITS TAX

With respect to the undistributed-profits tax, I feel that it should be modified, if not repealed. I was opposed to it, believing that it would prove injurious to business, to employees as well as employers, and would fail to produce revenue justifying its enactment. It certainly has a tendency to encourage monopolies and prevent new enterprises and small businesses from springing up. For example, corporations which had large surpluses when this act was enacted may, by distributing dividends out of these accumulated surpluses, pay much less tax on their current earnings than was enacted may, by distributing dividends out of these accumulated surpluses, pay much less tax on their current earnings than the smaller corporations which have no accumulated surplus to distribute and need all of their current earnings for the development of their business. Then, again, the tax is unfair in that it discourages, and in some instances wholly prevents, the accumulation of a surplus which is needed for rainy days and times of depression. depression.

However, I am not such an optimist that I believe this tax can be entirely removed from the statute books. I feel that we should face the situation squarely and attempt to remove as many of its inequities as possible by making amendments to it. For that reason at the last session of Congress I introduced several bills to mitigate some of the evils of the tax which would permit corporations to set aside a reasonable amount of their earnings for plant expansion, the development of business enterprises, and the purchase and equipment of plant and machinery. My measures would also permit these corporations to set aside a certain amount of their earnings for the payment of their debts. The relief provisions of the present undistributed-profits tax are entirely inadequate and, as construed by the Treasury Department, practically prohibit corporations from getting any relief at all for However, I am not such an optimist that I believe this tax can practically prohibit corporations from getting any relief at all for the payment of debts.

the payment of debts.

There is, of course, a possibility that the undistributed-profits tax may be declared unconstitutional by the courts. This was one of the reasons why I opposed the provisions of the House bill, which abandoned the system of imposing any normal tax on corporations whatever for a plan not tested and uncertaint as to its results. In other words, it threw away a certainty for an uncertainty and entered an experimental field when revenues were most needed to meet the enormous expenditures of the Government.

Government.

Permit me to suggest an argument against the validity of this tax. As is known by all, the income tax is based upon the receipt of income. Yet under the undistributed-profits tax two corpora-tions may receive exactly the same amount of income and yet be forced to pay a different amount in tax because of their disposition of the income after they receive it. Certainly after income has been received by a corporation it sheds its income shell and becomes capital. To tax corporations receiving the same amount of income on a different basis seems to me to be arbitrary and caprictous and in violation of the fifth amendment of the Constitution. Looking at the question squarely, the effect of the tax is to force corporations to distribute their earnings, although this is a matter over which the Federal Government has no control.

It certainly seems arbitrary to force one corporation to pay a higher tax on the same amount of income as that received by a rival corporation because the first corporation needs its earnings in its business and for that reason does not distribute them, whereas its more fortunate rival does not need the earnings in its business and therefore does distribute them. By such a tax, are we not penalizing the less prosperous corporations and offering a bonus to the wealthy ones?

In conclusion of this discussion of the undistributed profits

In conclusion of this discussion of the undistributed-profits tax, I wish to quote a statement by William F. Hamilton, of the New York and Connecticut bars, appearing in the September 3, 1937, edition of the Annalist:

"Economists have studied the tax on undistributed profits and found that it does not remove fundamental inequalities in tax-ation, since it is inequitable in itself; that it is not effective as a business stabilizer, not justifiable as an instrument of reform, penalizing the small as well as the large, good as well as the bad corporations; and is uncertain from the standpoint of revenue, as its probable yield may not be estimated. High rates, moreover, are deemed disadvantageous, as they eventually result in the drying up of future sources of revenue.

"We submit that, insofar as the corporate entity is concerned, regulation and reform are incompatible with revenue. An undistributed-profits tax might be enacted purely as a revenue measure with a moderate flat rate which might possibly be upheld as constitutional, but the present measure appears on its face, without other evidence, to be penal and regulatory in a sphere where Congress has no power. If the Government desires to retain the corporation as a substantial source of revenue, the undistributed-profits tax should be removed from the statute undistributed-profits tax should be removed from the statute books, or so modified as to make it without doubt a revenue and not a reform measure."

This view of Mr. Hamilton is in accord with the position taken This view of Mr. Hamilton is in accord with the position taken by the Senate Finance Committee when it recommended as a substitute for the House bill relating to the undistributed-profits tax a flat tax of 7 percent. It was the view of the committee that a 7-percent surtax upon incomes retained by corporations would be sufficient to induce corporations to materially increase dividend payment and at the same time permit them to set aside a reasonable amount of their surpluses for their business needs.

Corporations are not only subject to several forms of taxation by the Federal Government, but are also subject to the exactions imposed by the States. The undistributed-profits tax, with but slight consideration of corporate debts and obligations constitutes

slight consideration of corporate debts and obligations, constitutes an oppressive burden, and in many instances a menace to continued development. I have heretofore stated that the increase in the exactions of the Government has impeded industrial development and led to unwise Government experiments and improvident expenditures; and new forms of taxation have been imposed and many fields explored for the purpose of securing additional revenue. Various forms of excise taxes have been resorted to, some of which are unsound, unwise, and injurious to industry and to the people.

In 1935 more than 34 percent of the ordinary revenue of the Government was paid by corporations, upon whom were imposed capital-stock and excess-profits taxes and also the undistributed-profits tax. slight consideration of corporate debts and obligations, constitutes

### BULK OF TAXES FALL ULTIMATELY ON LABORING CLASS

May I say in passing that constitutional safeguards have not always been respected in levying taxes, and demands have been made that taxes should be levied not for revenue purposes only, but in order to change and transform our social and industrial but in order to change and transform our social and industrial life. Society is to be reorganized, revamped, and changed under this view, by taxation, even though it be confiscatory and destructive of normal and proper business and industrial development. In defense of heavy exactions in the form of taxes, the fanciful picture is painted that the rich alone pay the taxes. I have heretofore said that this is a fallacy. But if some forms of taxes are passed on, it must be conceded that the greater part of taxes, whether levied by way of tariff, excises, capital stock, or corporate or individual income, ultimately falls upon the workers and the farmers of the country. Governments derive nothing from their own operations; they are spendthrifts; they may perhaps conserve wealth, but they do not create it. Those who labor and toil are producers of wealth, from which the revenues are to be derived, and sooner or later the heavy burdens of taxation fall upon the backs of toilers, increase their rents, and to that extent reduce their wages, increase the cost of their daily food, and further depress their wages, and, unfortunately, often close the doors of employment.

I have heretofore stated that the best way to deal with revenue

I have heretofore stated that the best way to deal with revenue is to make it unnecessary to raise it, which means economies in government, and National and State policies which are sound.

# CAPITAL GAINS AND LOSSES PROVISIONS

One of the objectionable provisions of our revenue laws deals with the question of capital gains and losses, and in my opinion should be materially modified, if not repealed. It has been provocative of controversies and has resulted in injustices. Moreover, it has been an impediment to legitimate and desirable business transactions. It has prevented the sale, not only of real, but of personal property, to the disadvantage not only of the participants in the transactions, but to the Government itself. It has most seriously affected sales and purchases of stocks and securities, and to that extent has deprived the Government of revenues which would have resulted from such transactions.

Great Britain, wiser than we, has discovered that attempts to obtain revenue from capital gains prove futile. She believes that with increased sales and multiplied transactions greater accretions will result to the Treasury.

tions will result to the Treasury.

During the last session of Congress I offered a bill, which is now before the Finance Committee of the Senate, to repeal the tax on capital gains. I hope at the next session of Congress it will receive

consideration.

This brief discussion of our revenue laws, in my opinion, indicates some of the serious problems connected with revenue measures, particularly those dealing with the mining industry. It is important, therefore, that those interested in the development of our mining resources should familiarize themselves with the questions that are unavoidably encountered when revenue measures are under consideration by the Federal Government. It is important that Congress be fully advised of the peculiar and unusual problems presented by the mining industry, and which become acute and important in connection with the enactment of revenue measures.

### PREVENTION OF AND PUNISHMENT FOR LYNCHING

Mr. WAGNER. Mr. President, I ask unanimous consent to have printed in the RECORD an article which will appear in the next issue of the Nation, a very well-known magazine, written by Mr. Virginius Dabney, of the famous old southern family of Dabneys. Mr. Dabney himself is a very distinguished editor. He is now the editor of the Times-Dispatch, of Richmond, Va. The article favors the antilynching bill introduced by the Senator from Indiana [Mr. Van Nuys] and myself. I ask that it may be printed in the RECORD.

Mr. CONNALLY. I object. I think the article ought to be printed in the Nation first, and not be plagiarized and stolen and put in the Congressional Record in advance of its publication in the Nation. That is why I object.

Mr. WAGNER subsequently said: Mr. President, I am not asking any Senator to withdraw any objection; but the request I made a moment ago to have an article printed in the RECORD was made with the consent of both the author and the magazine in which it is to be published.

The PRESIDENT pro tempore. Objection is made.

#### ORDER OF BUSINESS

Mr. BARKLEY. Mr. President, in order that the RECORD may contain the statement, as well as that it may be heard by the Senators present, I desire to say that it is contemplated that immediately upon reconvening tomorrow we shall lay aside the pending motion and take up the farm bill for consideration, and proceed with it until it is concluded.

Under the order heretofore made at the last session, automatically the antilynching bill will become the unfinished business of the Senate, without motion, immediately upon the conclusion of the consideration of the farm bill. In order that we may immediately proceed tomorrow to consider the agricultural bill, it is my understanding that the Senator from New York [Mr. WAGNER] will withdraw his motion. That cannot be done today, however, because the farm bill must lie over until tomorrow.

Mr. CONNALLY. Mr. President, will the Senator yield?
Mr. BARKLEY. Yes.
Mr. CONNALLY. In connection with what the Senator from Kentucky has just said, I desire to serve notice that we shall resist any interpretation of the action at the last session as automatically bringing up the so-called lynching bill after the consideration of the farm bill. That agreement and understanding have been repudiated by those in charge of the antilynching measure on the floor of the Senate; and we shall resort to whatever parliamentary or other maneuvers are necessary to prevent that action.

Mr. BARKLEY. Be that as it may, we propose to go on with the farm bill tomorrow.

Mr. CONNALLY. I am agreeable to that.

Mr. KING. Mr. President-

Mr. BARKLEY. I yield to the Senator from Utah.

Mr. KING. I inquire whether I correctly understood the Senator, namely, that automatically tomorrow we shall proceed with the farm bill, setting aside the motion with reference to the so-called antilynching bill?

Mr. BARKLEY. No; I did not say "automatically." I said that it is our purpose to proceed with the farm bill tomorrow, which, of course, will have to be done upon motion, and that motion will have to be carried by a majority of the Senate: but, looking to that motion, the Senator from New York, as was our understanding from the beginning, will withdraw the motion now pending, in order that a motion may be made to consider the farm bill.

Mr. KING. Suppose objection should be made to the withdrawal of that motion, and the Senate or Senators should elect to proceed with a discussion of the antilynching bill. Would there be any possibility of preventing that?

Mr. BARKLEY. Any Member may withdraw his own motion at any time without the consent of any other Member.

The PRESIDENT pro tempore. The Chair will state that the matter may be resolved in either of two ways: The Senator from New York may withdraw his motion, or a motion may be made to table his motion; and if a majority of the Senate should desire to proceed with the farm bill, they would vote to table the motion.

Mr. KING. If I may be pardoned, that is a matter which would permit debate?

The PRESIDENT pro tempore. A motion to table is not debatable.

Mr. McKELLAR. Mr. President, will the Senator from Kentucky yield for a question.

Mr. BARKLEY. Yes; I yield to the Senator from Ten-

Mr. McKELLAR. The Senator said that immediately upon the conclusion of the consideration of the farm bill the antilynching bill would come up. Does the Senator mean that it would come up in advance of the three other measures which the President has recommended for special consideration at this special session of the Congress?

Mr. BARKLEY. I was placing my own interpretation on the unanimous-consent agreement entered into at the last session, which I think is the proper interpretation, that following the conclusion of the consideration of the farm bill, whether its consideration is concluded in any possible extra session or in the regular session in January, automatically the antilynching bill will become the unfinished business of the Senate, without motion. That is my interpretation of the unanimous-consent agreement, and that was my object in proposing the unanimous-consent agreement at the time, to which no Senator objected.

Mr. McKELLAR. Then the antilynching bill would come ahead of the other three bills which the President called this extra session for the purpose of considering?

Mr. BARKLEY. Undoubtedly.

Mr. WAGNER. Mr. President-

Mr. BARKLEY. I yield to the Senator from New York. Mr. WAGNER. I desire to say to the Senator that I, of course, agree with the interpretation placed upon the unanimous-consent agreement by the majority leader; and I did not think there was any question about the antilynching bill coming up automatically after the conclusion of the consideration of the agricultural bill.

It is with that understanding, of course, that I am proposing to withdraw my motion, so as to keep my part of the agreement stated at the time I made the motion. Perhaps I will wait until tomorrow, and will then ask a ruling of the Chair upon that question.

Mr. BARKLEY. I was merely giving notice to the Senate of what might be expected tomorrow. I did not anticipate any controversy about the interpretation of the agreement, or about whether a Senator could withdraw his own motion. I felt that the Senate ought to be on notice as to what we expect to do tomorrow.

Mr. McNARY. Mr. President, I am in entire accord with the views expressed by the eminent leader on the Democratic side. It is my judgment that tomorrow a parliamentary inquiry might well be propounded in order to determine the question before any action is taken regarding the farm bill.

Mr. BARKLEY. I do not quite understand the parliamentary inquiry involved.

Mr. McNARY. It is my opinion that a parliamentary question could be propounded to the occupant of the chair tomorrow that would determine the proper construction to be placed upon the unanimous-consent agreement. That could only come tomorrow, in the course of the debate, and not today, naturally.

Mr. BARKLEY. Of course, the parliamentary inquiry as to the interpretation of the unanimous-consent agreement might not come until the farm bill is out of the way on the question as to whether the antilynching bill automatically would come before the Senate. But I should like to propound a parliamentary inquiry now, whether the Senator from New York can withdraw his motion, now pending, without the consent of any other Senator?

The PRESIDENT pro tempore. It is the opinion of the present occupant of the chair that he can.

Mr. WAGNER. Mr. President, may I ask the leader on the other side, who has just addressed the Chair, whether his interpretation is not exactly like the interpretation placed upon the agreement by the majority leader?

Mr. McNARY. I stated so a moment ago. Unquestionably, from the understanding we had, and the view expressed by the Senator from Kentucky as to the action of the Senate, whenever we dispose of the farm bill, automatically, without motion, the unfinished business will be nothing less or more or other than the antilynching bill.

Mr. CONNALLY. Mr. President, Senators speak of an agreement had at the last session. That agreement was that the antilynching bill would come up after the farm bill, and not before it, according to the interpretation of Senators, yet Senators stand on this floor and repudiate that agreement, and want to have the antilynching bill brought up before the farm bill, not in accordance with the agreement. If the agreement was to have the antilynching bill follow the farm bill, I want to know why Senators did not adhere to the agreement.

Mr. BARKLEY. If I may answer the question, I will say to my friend the Senator from Texas that the unanimousconsent agreement speaks for itself. The fact that Members of the Senate have made an unsuccessful effort to have the antilynching bill taken up in advance of the farm bill does not in any way affect the validity of the agreement made at the last session.

Mr. CONNALLY. But I am asking why Senators who make an agreement do not observe the agreement, and have the bill taken up after the farm bill, not seek to have it taken up out of order, at another time.

Mr. BARKLEY. Of course, we have to consider agreements made in the Senate as a whole, and not individual interpretations.

The PRESIDENT pro tempore. What is the pleasure of the Senate?

# EXECUTIVE SESSION

Mr. BARKLEY. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business.

# EXECUTIVE REPORTS OF COMMITTEES

Mr. SHEPPARD, from the Committee on Military Affairs. reported favorably numerous nominations of sundry officers for appointment and appointment by transfer in the Regular Army, and also in the Philippine Scouts.

Mr. McKELLAR, from the Committee on Post Offices and Post Roads, reported favorably the nominations of sundry postmasters.

The PRESIDENT pro tempore. The reports will be placed on the Executive Calendar. Are there other reports of committees? If not, the calendar is in order.

# ARMY NOMINATIONS

Mr. SHEPPARD. Mr. President, on behalf of the Committee on Military Affairs I reported today quite a large number of routine military nominations, practically all of them having been made during the recent recess. To save the expense of duplication in printing them in the calendar and in the RECORD, I ask that the nominations be confirmed en bloc at this time and that the President be notified.

The PRESIDENT pro tempore. Is there objection? The Chair hears none; the nominations are confirmed, and the President will be notified.

The Chair is informed that there are no nominations on the calendar.

# RECESS

The Senate resumed legislative session.

Mr. BARKLEY. I move that the Senate take a recess until 12 o'clock noon tomorrow.

The motion was agreed to; and (at 4 o'clock and 34 minutes p. m.) the Senate took a recess until tomorrow, Tuesday, November 23, 1937, at 12 o'clock meridian.

#### CONFIRMATIONS

Executive nominations confirmed by the Senate November 22 (legislative day of November 16), 1937

# APPOINTMENTS IN THE REGULAR ARMY

Col. Allen Wyant Gullion to be Judge Advocate General with the rank of major general.

Col. Julian Larcombe Schley to be Chief of Engineers with the rank of major general.

Col. Joseph Oswald Mauborgne to be Chief Signal Officer with the rank of major general.

Col. Walter Evans Prosser to be brigadier general.

#### TEMPORARY RANK IN THE AIR CORPS

To be colonels

John Chilton McDonnell Roy Messick Jones

#### To be lieutenant colonels

Lester Thomas Miller Arthur Bee McDaniel Francis Murray Brady

Arthur Edmund Easterbrook Warner Beardsley Gates Ira Clarence Eaker

#### To be majors

Jack Greer Guy Kirksey Thomas Herbert Chapman John Michael McDonnell Angier Hobbs Foster Harry Hobson Mills Edwin Sullivan John Raymond Drumm Oliver Kendall Robbins John Raglan Glascock Charles Gage Brenneman George Vardeman McPike George Good Cressey Clarence Edgar Crumrine Russell Hay Cooper Ray L. Owens John Sherman Gullet Henry Guy Woodward John Ross Morgan Roscoe Caleb Wriston Charles Edwin Thomas, Jr. James Bumer Jordan James Cole Shively James Culver Cluck

William Noel Amis Harold Hibbard Carr Rufus Benjamin Davidson Stanton Thomas Smith Evers Abbey Joseph Popenjoy Bailey Clarence Frost Horton Raymond Rudolph Brown William John McKiernan, Jr. Edwin Ray McReynolds David Glenn Lingle Robert Morris Webster Sigmund Franklin Landers Milo Neil Clark Harrison Gage Crocker Ned Schramm Jesse Anthony Madarasz Edward Morris Robbins Jack Clemens Hodgson Stanley Milward Umstead James Weston Hammond Charles Backes Ray Guy Harris Pardoe Martin

# CORPS OF ENGINEERS

# To be second lieutenants

Allan A. Blatherwick William George Van Allen Jack Alban Gibbs Ernest Cortland Adams Lavonne Edwin Cox Charles V. Ruzek, Jr. Holmes Fielding Troutman Ward Hamilton Van Atta Henry Cottrell Rowland, Jr. Erland Alfred Tillman Joseph Anthony Smedile William Davis Murphy John Allan Morrison Walter Orville Peale, Jr. John Andrew Allgair John Dean Holm, Jr. Paul Henry Lanphier Earl Harrison Williams

Daniel Joseph Sheehan

Claude Benjamin White

Thomas Donald McCarthy

Joseph Edward Cannon

James Bernard Seaman

Donald Edgar Carle

# MEDICAL CORPS

# To be first lieutenants

John Boyd Coates, Jr. Byron Edward Pollock William Donald Preston Winston Hunter Vaughan,

DENTAL CORPS

# To be first lieutenants

Robert Donald Johnson Bernard Charles Hammon Arthur Nicholas Kracht Maurice Cooper Harlan William Harold Day

Richard Patrick Mason

Martin Frederick Sullivan Glynn Bryan Widner Richard Henry Carnahan James O'Neil Mitchell Charles Kenneth Reger

George Henry Timke, Jr. Clyde Danford Oatman, Jr. James Shira Pegg Thomas James Hagen William Brooks Simms Carlos Francis Schuessler Marshall Clemmon Clerk

John Eugene Finnegan Frederick Reuben Corbin Frederick Henry Richardson. Jr Henry Stuart Carroll Donald Bliss Lenkerd Frank Garvey Bolton

### VETERINARY CORPS

# To be first lieutenants

Earl Goss Kingdon John Kenneth Allen

# APPOINTMENTS, BY TRANSFER, IN THE REGULAR ARMY

# TO ADJUTANT GENERAL'S DEPARTMENT

Capt. Charles Carlton Cavender.

Capt. Albert Gillian Kelly.

Capt. Charles Raeburne Landon.

Capt. Newton Farragut McCurdey. Capt. Frank Martin Smith.

# TO QUARTERMASTER CORPS

Maj. Eugene Peter Henry Gempel.

Maj. Farragut Ferry Hall.

Maj. Wilbur Reece McReynolds.

Maj. Norman Minus.

Maj. George Corbett Pilkington.

Capt. Robert Earle Blair.

Capt. Harry Grattan Dowdall.

Capt. Mark Christian Neff.

Capt. Jack Edmund Rycroft.

Capt. Charles Elford Smith.

First Lt. Charles Greene Calloway.

### TO FINANCE DEPARTMENT

Capt. Stephen Bowen Elkins.

TO ORDNANCE DEPARTMENT

First Lt. Phillips Waller Smith.

TO SIGNAL CORPS

Capt. Maurice Place Chadwick.

TO CHEMICAL WARFARE SERVICE

Capt. Thomas Adams Doxey. Jr.

# TO FIELD ARTILLERY

First Lt. Louis Mortimer deLisle deRiemer.

# TO AIR CORPS

Second Lt. John Knox Arnold, Jr.

Second Lt. Wallace Conrad Barrett.

Second Lt. John Milton Bartella.

Second Lt. Fredrick Bell.

Second Lt. Carl Kenneth Bowen, Jr.

Second Lt. Edward Lawrence Parsons Burke.

Second Lt. Richard Henry Carmichael.

Second Lt. George Paul Champion.

Second Lt. Albert Patton Clark, Jr.

Second Lt. Cecil Edward Combs.

Second Lt. William Ellerbe Covington, Jr.

Second Lt. Laurence John Ellert.

Second Lt. Robert Dean Gapen.

Second Lt. Frank Walter Gillespie.

Second Lt. Carl Theodor Goldenberg.

Second Lt. William Russell Grohs.

Second Lt. Ernest Samuel Holmes, Jr.

Second Lt. Clark Lewis Hosmer.

Second Lt. Seward William Hulse, Jr.

Second Lt. William Wesley Jones.

Second Lt. John Richard Kelly.

Second Lt. William Levere Kimball. Second Lt. William Garnett Lee, Jr.

Second Lt. William Maurice McBee.

Second Lt. Charles Milton McCorkle.

Second Lt. Dwight Oliver Monteith.

Second Lt. Joseph James Nazzaro.

Second Lt. Conrad Francis Necrason.

Second Lt. Carl Mosby Parks.

Second Lt. Turner Clifton Rogers. Second Lt. Jay Dean Rutledge. Jr.

Second Lt. Von Roy Shores, Jr.

Second Lt. Norman Calvert Spencer. Jr.

Second Lt. Charles Barnard Stewart. Second Lt. Frederick Reynolds Terrell.

Second Lt. Clinton Utterback True. Second Lt. James Walter Twaddell, Jr.

Second Lt. Clinton Dermott Vincent.

PROMOTIONS IN THE REGULAR ARMY

To be colonels

Frank Keet Ross, Field Artillery. Oral Eugene Clark, Infantry. Allan Clay McBride, Field Artillery. Herman Kobbe, Cavalry. John Norton Reynolds, Air Corps. Leonard Craig Sparks, Field Artillery. Rufus Foote Maddux, Coast Artillery Corps. Lincoln Beaumont Chambers, Corps of Engineers. John Hale Stutesman, Infantry. John Alden Crane, Field Artillery. John Ashley Warden, Quartermaster Corps. Frank Melvin Kennedy, Air Corps. John Thomas Harris, Quartermaster Corps. Albert Sidney Johnston Tucker, Infantry. Marion Ogilvie French, Infantry. Frederick Almyron Prince, Field Artillery. John Mather, Ordnance Department. George William Carlyle Whiting, Infantry.

To be lieutenant colonels

Fay Brink Prickett, Field Artillery. Calvin DeWitt, Jr., Cavalry. Lucien Samuel Spicer Berry, Cavalry. Victor William Beck Wales, Cavalry. William Earl Chambers, Infantry. Joseph Merit Tully, Cavalry. James deBarth Walbach, Coast Artillery Corps. Warner William Carr, Infantry. Hugh Mitchell, Signal Corps. Robert LeGrow Walsh, Air Corps. Richard Mar Levy, Adjutant General's Department. Thomas Lyle Martin, Infantry. Geoffrey Prescott Baldwin, Infantry. Kenneth Macomb Halpine, Infantry. George Sidney Andrew, Cavalry. Roland Paget Shugg, Field Artillery. Ellicott Hewes Freeland, Coast Artillery Corps. Spencer Albert Townsend, Cavalry. Richard Clark Birmingham, Infantry James Cornelius Ruddell, Coast Artillery Corps. Thomas Green Peyton, Cavalry. Joseph Hamilton Grant, Infantry. Joseph James O'Hare, Infantry. Arthur Monroe Ellis, Infantry. Maurice Levi Miller, Infantry. Junius Henry Houghton, Air Corps. Abram Vorhees Rinearson, Jr., Coast Artillery Corps.

To be majors

Robert Jesse Whatley, Infantry, subject to examination required by law.

Ira Robert Koenig, Air Corps. Raynor Garey, Field Artillery. Harrie Dean Whitcomb Riley, Corps of Engineers. Philip Schneeberger, Air Corps. Leon Henry Richmond, Signal Corps. Victor Guminski Schmidt, Coast Artillery Corps. Fred Bidwell Lyle, Field Artillery. Karl Shaffner Axtater, Air Corps. William Joseph Flood, Air Corps. Charles Merrill Savage, Air Corps. Francis Dundas Ross, Jr., Infantry. George Churchill Kenney, Air Corps. Bertram John Sherry, Signal Corps.

George Merrill Palmer, Air Corps. Charles Rawlings Chase, Cavalry.

Loren Francis Parmley, Judge Advocate General's Department.

Erle Fletcher Cress, Cavalry.

Ray Harrison Green, Quartermaster Corps.

John Parr Temple, Air Corps.

Hugh Williamson Rowan, Chemical Warfare Service. Russell William Goodyear, Quartermaster Corps.

Byron Turner Burt, Jr., Air Corps. Earle Gene Harper, Air Corps.

Philip Gilstrap Bruton, Corps of Engineers.

Eugene Joseph FitzGerald, Infantry.

Edward Frederick French, Signal Corps.

Lotha August Smith, Air Corps.

Horace Leland Porter, Corps of Engineers. Arthur Leo Lavery, Coast Artillery Corps.

Frank Marion Barrell, Quartermaster Corps.

Paul Sutphin Edwards, Signal Corps.

Franz Joseph Jonitz, Quartermaster Corps.

William Valery Andrews, Air Corps.

Stanton Higgins, Cavalry.

Redding Francis Perry, Cavalry.

Walter Arthur Metts, Jr., Field Artillery.

Frank Camm, Field Artillery.

Richard Oscar Bassett, Jr., Infantry. Percy Stuart Lowe, Coast Artillery Corps.

Lewis Alonzo Murray, Corps of Engineers.

John Alfred Gilman, Quartermaster Corps. John Edward Langley, Corps of Engineers.

Lorenzo Dow Macy, Infantry.

#### MEDICAL CORPS

# To be lieutenant colonels

William Alexander Smith George Earl Hesner Edwin Leland Brackney Edward Jones Strickler Frank William Pinger Aubrey Kenna Brown Daniel Currie Campbell Neely Cornelius Mashburn Charles Booth Spruit John Shackelford Gibson John Dawson Roswell

Woodworth Lucius Featherstone Wright Percy Daniel Moulton Herbert Hall Price William Elijah Moore Devers William Monroe White Jose Canellas Carballeira Samuel Elkan Brown Clyde Clifford Johnston Ernest Farris Harrison Albert Julius Treichler William Daniel Mueller Harry Ainsworth Clark Julius Girard Newgord Malcolm Cummings Grow Henry Mitchell Van Hook Silas Walter Williams Ross Bradley Bretz Clarence Clinton Harvey Robert Cornelius Murphy Clyde Danford Oatman Carroll Porteous Price Henry Charles Johannes Earl Hunter Perry Donald Ion Stanton Charles Beresford Callard James Sutton Brummette

Joseph Hall Whiteley James Harvey Ashcraft Clyde McKay Beck William Clare Porter David Ap Myers James Bliss Owen Milo Benjamin Dunning Joseph Sherman Craig Richmond Favour, Jr. Dennis William Sullivan Walter Midkiff Crandall John Michael Weiss Charles Arthur Bell Lincoln Frank Putnam Rufus Leroy Holt John DuBose Barnwell Everett LeCompte Cook Ralph Leslie Cudlipp Virgil Heath Cornell Gordon Adams Clapp Joe Harold St. John Theo Wallace O'Brien William Charles Munly Ebner Holmes Inmon George William Rice Robert James Platt James Neal Williams Rollo Preston Bourbon Wesley Cintra Cox Floyd Vern Kilgore John Christopher Woodland Walter Leslie Perry Harvey Robinson Livesay Raymond Osborne Dart John Frank Lieberman Brooks Collins Grant William Bell Foster Chauncey Elmo Dovell

To be major

Walter Steen Jensen

# To be captains

Edward Alexander Cleve Douglas Blair Kendrick, Jr. George Walter McCoy, Jr. James Clark Van Valin William Francis Conway Lucius George Thomas Victor Robert Hirschmann

John William O'Donnell Fred Howenstine Mowrey Hubert Thaddeus Marshall Robert Denton Smith William Byrd Stryker William Langford Spaulding

# DENTAL CORPS

# To be lieutenant colonels

Thomas Minyard Page James Boyle Harrington Forle Robbins Roy Albert Stout Roy L. Bodine James Jay Weeks Thomas Joseph Cassidy Howard Austin Hale Walter Davis Vail Clement John Gaynor Walter Andrew Rose Eugene Alonzo Smith Alvin Ellsworth Anthony William Burns Caldwell

Lewis Walter Maly Glover Johns Leslie Dean Baskin Dell Stuart Gray William B. Stewart Roy Raymond Newman Boyd Lee Smith Avery Giles Holmes George Robert Kennebeck Horace Ray Finley Joseph Lyon Boyd Richard Foster Thompson Edwin St. Clair Wren William Swann Shuttleworth

# To be captains

Arthur Nicholas Kracht George Thomas Perkins Roy L. Bodine, Jr. George Farrer Jeffcott

# VETERINARY CORPS To be colonels

George Henry Koon Daniel Buchter Leininger

# To be lieutenant colonels

François Hue Kari Reynolds Sawyer Adelbert Grover Charles Sears Williams Fred W. Shinn Philip Henry Riedel Irby Rheuel Pollard Frank Caldwell Hershberger Clifford Eugene Pickering Frank Benjamin Steinkolk Raymond Randall

Seth C. Dildine Joseph Hiriam Dornblaser George Leslie Caldwell Jacob Landes Hartman John Harold Kintner Samuel George Kielsmeier Peter Thomas Carpenter Oness Harry Dixon, Jr. John Wesley Miner George Jacob Rife

# To be captains

James Bernhard Nichols Albert Arthur Roby, Jr. Daniel Stevens Stevenson William Francis Collins Ray Swartley Hunsberger

# MEDICAL ADMINISTRATIVE CORPS

To be captain

Charles Lawrence Driscoll

# CHAPLAINS

To be chaplains, United States Army, with the rank of lieutenant colonel

John Ralph Wright Harry Carleton Fraser John Oscar Lindquist Frank Meredith Thompson Walter B. Zimmerman Joseph Burt Webster

Frank Connors Rideout Alfred Cookman Oliver, Jr. John Hall Edward Lewis Trett Charles Coburn Merrill

To be chaplain with the rank of major Edward Robert Martin

To be chaplain with the rank of captain Ralph Emmerson McCaskill

> PROMOTION IN THE PHILIPPINE SCOUTS TO BE LIEUTENANT COLONEL

Rafael Larrosa Garcia

# HOUSE OF REPRESENTATIVES

# MONDAY, NOVEMBER 22, 1937

The House met at 12 o'clock noon.

The Chaplain, Rev. James Shera Montgomery, D. D., offered the following prayer:

Almighty God, as we wait at the altar of prayer, may we harken unto Thy word. The law of the Lord is perfect, converting the soul; the testimony of the Lord is sure, making wise the simple; the statutes of the Lord are right, rejoicing the heart; the commandments of the Lord are pure, enlightening the eyes. We pray Thee, our Father, to let Thy truth touch the energies of our natures. Convert them into deep resolution, growing self-control, industry, and devotion to duty. We praise Thee for Thy countless providences which save, shelter, and redeem men. May we drink of the spirit of the Master, share His purity, and do good as He did. Grant that we may take counsel together and walk in this Chamber as brothers. In our Savior's name. Amen.

The Journal of the proceedings of Friday, November 19, 1937, was read and approved.

### EXTENSION OF REMARKS

Mr. Maverick asked and was given permission to extend his remarks in the RECORD.

# ESTATE OF JOHN F. HACKFELD

Mr. O'MALLEY. Mr. Speaker, I call up the conference report on the joint resolution (S. J. Res. 67) conferring jurisdiction upon the Court of Claims to hear and determine the claim of the estate of John F. Hackfeld, deceased, and ask unanimous consent that the statement may be read in lieu of the report.

The Clerk read the title of the Senate joint resolution.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The Clerk read the statement.

The conference report and statement are as follows:

# CONFERENCE REPORT

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the joint resolution (S. J. Res. 67) conferring jurisdiction upon the Court of Claims to hear and determine the claim of the estate of John F. Hackfeld, deceased, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as

That the Senate recede from its disagreement to the amendment of the House numbered 1, and agree to the same with an amendment as follows: Restore the matter stricken out by said amendment amended to read as follows: "just compensation, not exceeding a sum which will represent, with the amount already paid, the then true value of the corporate stocks and other property hereinafter referred to but without any interest on the same, including"; and the House exceet to the same.

and the House agree to the same.

That the Senate recede from its disagreement to the amendments of the House numbered 2 and agree to the same.

ALFRED F. BEITER,
THOMAS O'MALLEY,
CHARLES R. CLASON,
Managers on the part of the House. TOM CONNALLY, WILLIAM H. DIETERICH, WARREN R. AUSTIN, Managers on the part of the Senate.

# STATEMENT

Amendment No. 1 adopted by the House struck out the Senate provision for "just compensation" leaving as referred to the Court of Claims only the claim for damages and losses sustained. The of Claims only the claim for damages and losses sustained. The conference committee recommends a clarifying amendment to the amendment to show that the court is authorized to enter judgment for a sum not exceeding the difference between the amount paid and the true value of the corporate stocks or other property referred to in the body of the joint resolution and that no interest is to be allowed on the amount awarded.

The conference committee further recommends that House amendment No. 2, which provides that the suit shall be instituted

within 1 year of the enactment of the joint resolution, be agreed to by the Senate as being only a reasonable limitation for the time of bringing suit.

ALFRED F. BEITER, THOMAS O'MALLEY, CHARLES R. CLASON Managers on the part of the House.

The conference report was agreed to. A motion to reconsider was laid on the table.

AGRICULTURE AND THE TARIFF

Mr. SNELL. Mr. Speaker, I ask unanimous consent to proceed for 2 minutes.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. SNELL. Mr. Speaker, I was very much chagrined and disturbed to read in the paper this morning a report from the Bureau of Agricultural Economics which came out yesterday. In this report it is stated that for the first time in the history of the American people the agricultural interests of this country have received the short end of the stick insofar as international trade is concerned in that the imports during the year 1937 will be 18 percent larger than the exports. It specially refers to the fact that these are competitive farm products.

In the face of this statement of facts by a bureau of the Department of Agriculture there is continual propaganda sent out by the administration, and especially the State Department, trying to make the farmers of this country believe that they have benefited by these reciprocal trade agreements. In my judgment this policy has been very detrimental to the agricultural interests of this country, and I believe the best thing this Congress could do at the present time would be to take immediate steps to repeal the power given the President to make such agreements. This would be much more effective and give more immediate relief to the American farmer than the complicated farm measure that is proposed by the administration at the present time. [Applause.] I believe the best thing this Congress can do for the farmers of the country is to give them the full benefit of our home market—the best in the world. I am also strongly opposed to the continual reduction of the tariffs on farm products as carried out by the State Department in its reciprocal trade treaties and agreements. If this Department continues its present course it will not be long before the major proportion of our protection to farm products will be wiped out, and the Lord only knows what will become of the honest, hard-working American farmer.

Mr. COCHRAN and Mr. KNUTSON rose.

Mr. SNELL. I do not yield.

[Here the gavel fell.]

Mr. RAYBURN. Mr. Speaker, I ask unanimous consent to proceed for 2 minutes.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. RAYBURN. Mr. Speaker, I have seen the statements in the press to which the gentleman from New York [Mr. SNELL] has referred.

The way I interpret them, instead of showing a very unhealthy situation in America, they indicate a very healthy condition. In the first place, they show that the American people at this time have a buying power far in excess of what they had 3 or 4 or 5 or 6 years ago. Furthermore, we may say in support of this position a great many of these agricultural imports are things that we do not raise in this country at all. Certainly a great percentage of them.

I believe if the matter is looked into we will find that the American people now have the power to buy, and this situation is brought about not because our agriculture is being legislated against, but because the American people do have a greater buying power.

Mr. Speaker, I may be alone in still being one of the "reasonably low tariff" people in Congress, but I think that the prohibitive protective tariff in effect in this country since the last tariff act was passed was one of the great contributing causes to the debacle of 1929. I believe it is axiomatic, Mr. Speaker, that when we erect walls around this country so high that the surplus products of the remainder of the world cannot come in in a reasonable degree it practically closes automatically the ports of the world against the commerce of America [applause], because we know, if our study of history and economics has meant anything to us, that money does not cross the ocean to balance the trade of one country with another, but it is a case of goods for goods, and they have always crossed the ocean to balance the trade between this and other countries. Instead of condemning Secretary Hull, I believe that in bringing about trade and commerce between this and the other nations he has performed one of the outstanding services of this generation, which will make him go down in history as one of the greatest and most outstanding Secretaries of State that has ever occupied that position. [Applause.]

Mr. Speaker, under my leave to extend my remarks just made I desire to place in the RECORD a letter written by Secretary of State Hull to Senator CAPPER, of Kansas, which fortifies and justifies what I have just said:

OCTOBER 18, 1937.

The Honorable ARTHUR CAPPER

Topeka, Kans.

MY DEAR SENATOR CAPPER: My attention has recently been called to reports in the press that you propose to conduct what was described as a "grass-roots campaign" against the reciprocal trade agreements program. It is further reported that you denounced the program as a disguised method of "selling out the farmer for the benefit of eastern manufacturers," and that in support of this statement you cited the increase in imports and degrees in the contract of t statement you cited the increase in imports and decrease in exports of agricultural products in the fiscal year ended June 30, 1937, as compared with the preceding fiscal year. Assuming that you are correctly reported, I feel that it is my duty, as one charged with a heavy official responsibility in connection with the formulation and execution of the program, to bring to your attention relevant facts and considerations which, in my opinion, show not only that your impressions are ill-founded but that as a matter of

only that your impressions are ill-founded but that as a matter of fact farmers are about the last group in the United States which should oppose the program.

Ever since the inauguration of the trade-agreements program there have appeared, from time to time, in the press and elsewhere statements designed to foster the belief that agricultural interests are being injured. In some cases these criticisms have doubtless been due to misinformation on the part of the individuals concerned as to the facts of the situation. Much of the time, however, the circumstances attending their dissemination are such as to leave no doubt of a deliberate intent to alienate public, and particularly farm, support by means of an incomplete are such as to leave no doubt of a deliberate intent to alienate public, and particularly farm, support by means of an incomplete and biased presentation of trade figures. As a result of such distortions of statistics by opponents of the trade-agreements program, many persons who have sincerely at heart both the general public interest and the welfare of the farming population, but who are unable to devote much of their time to a study of the complex facts concerning trade agreements are likely to be seriously misked.

ously misled.

Ously misled.

The gist of the argument of those who contend that agriculture has been "sold out" appears to be somewhat as follows: (1) That imports of agricultural products are unduly large and have been increasing rapidly to the great detriment of the farmers; (2) that increasing rapidly to the great detriment of the farmers; (2) that trade agreements are in large measure responsible for this allegedly unfortunate state of affairs; and (3) that the trade agreements have been ineffective as a means of expanding outlets for farm products. The evidence commonly cited in support of these propositions contains just enough admixture of partial fact, or of half truths with misleading implications, to convey, in a most insidious manner, what are essentially complete untruths concerning this whole situation. An examination of the outstanding facts with reference to the character and trend of our imports and exports of farm products and of the role played by trade agree. exports of farm products, and of the role played by trade agreements, will show that this is the case.

Before going into these facts, however, it may be well to point

out that prices alone furnish strong presumptive evidence that there is something radically wrong with any theory which says that the tariff and other policies of this administration affecting agriculture have been detrimental to the interests of farmers.

In 1932, 2 years after the enactment of the Smoot-Hawley tariff, the average farm price of corn in the United States was 28 cents a bushel; in 1936, it was 77 cents; and for the first 8 months of 1937, approximately \$1 a bushel. In 1932, the average farm price of wheat was 39 cents a bushel; in 1936, 96 cents;

and for the first 8 months of 1937, \$1.17. In 1932, hog raisers got, on the average, \$3.44 a hundred pounds for their pigs; in 1936, they got \$9.17; and for the first 8 months of 1937, \$9.79. In 1932, beef cattle brought the producers, on the average, \$4.07 a hundred; in 1936, \$6; and for the first 8 months of 1937, \$7.62. Butterfat yielded dairy farmers an average of 17.9 cents a pound in 1932; 32.5 cents in 1936; and 32.6 cents in the first 8 months of 1937. Wool growers got 8.7 cents a pound for their wool in of 1937. Wool growers got 8.7 cents a pound for their wool in 1932; 26.7 cents in 1936; and in the first 8 months of 1937, 31.8 cents. It must be recognized, of course, that the high prices of some of these products in 1937 were largely due to drought; hence prices for 1936 are also given. The drought factor is particularly significant, for example, in connection with the 1937 price of corn; with the harvesting of this year's more normal crop, the price of corn may be expected to recede.

corn may be expected to recede.

Without going into all the factors affecting these prices, it must be evident that such figures fail to square with the fantastic notion that farmers have been "sold down the river" by this administration, either through its tariff policies or otherwise. On the contrary, what they suggest, and what is the actual fact, is that the real "sell-out" occurred when the Smoot-Hawley Act was passed. That was the time when agriculture received the real body blow from which this administration has sought for the past 5 years, with marked success, to rescue it.

Now let us examine a little this question of farm imports about which so much is heard. Which agricultural imports have increased? To what extent are they competitive with domestic farm products? Why have they been increasing?

From the fiscal year ended June 30, 1934, to that ended June

farm products? Why have they been increasing?

From the fiscal year ended June 30, 1934, to that ended June 30, 1937, the value of our agricultural imports increased by \$699,000,000, or 83 percent. Of this total, \$252,000,000 represents increases in the leading imported commodities not produced in the United States and not substituted for the farm products which are produced in the United States. These imports, the principal among which are coffee, tea, cacao beans, rubber, silk, bananas, and spices, compose more than 36 percent of the increase in agricultural imports, upon which so much emphasis has been placed. and spices, compose more than 30 percent of the increase in agricultural imports upon which so much emphasis has been placed. They have no proper place in any discussion of the tariff problem, and are usually lugged in simply in order to swell the total of agricultural imports and thus excite unwarranted apprehension on the part of uncritical observers. Instead of being hurtful, they are well-nigh indispensable; and yet they are paraded as injurious temports. imports

A further \$141,000,000 of the increase in farm imports is accounted for by increases in the leading items affected by the great droughts of 1934 and 1936. Most of these products we ordinarily export rather than import. In years, however, of extremely poor growing conditions (and hence low yields per acre) we may have inadequate supplies in spite of large acreages originally planted. Under these conditions prices rise sufficiently to make it profitable for foreigners to send us supplementary supplies of the drought-affected commodities. Such imports in no sense displace the prodaffected commodities. Such imports in no sense displace the products of American farms. They supplement the domestic supply. They relieve shortages of feedstuffs which could not otherwise be relieved. They do not depress prices but, on the contrary, come in precisely because prices are high. They do, of course, tend to check the rise of prices to famine levels. Hence they benefit the many farmers who have to buy feed for their livestock, as well as the ultimate consumer. The leading imports which have been increased in this fashion during the past 3 years are corn, wheat and wheat flour, fodders and feeds, meat products, barley, barley malt, tallow, and butter. In the case of butter, while there is always some seasonal importation in the winter months, there is no doubt that high prices of dairy feed in consequence of the drought have tended to increase prices of butterfat, and thus to attract larger imports of butter over the present tariff of 14 cents a pound. Increases in imports of this general class of items account for over 20 percent of the total against which so much criticism has been directed. criticism has been directed.

Of the remaining \$306,000,000 increase in agricultural imports during the past 3 years, \$45,000,000 represents the increase in sugar imports. Sugar imports into the United States are subject to strict quantitative control. The quotas for foreign countries are fixed in such a way as to reserve for domestic producers at least as much of our home market as they can supply at a reasonable price. As a matter of fact, the quantity of sugar imports has least as much of our home market as they can supply at a reasonable price. As a matter of fact, the quantity of sugar imports has increased only slightly in the past 3 years. Most of the rise in their aggregate value has been due to higher prices. Under the circumstances, that rise is hardly detrimental to American agriculture.

After deducting these three categories—i. e., the leading imports of commodities neither produced in the United States nor substituted for our farm products, the principal drought-affected products, and sugar—there is a remainder of \$261,000,000, representing the difference between the total increase of \$699,000,000 and the sum total of these three groups. By far the greater part of this is accounted for by commodities which we regularly import in large quantities in spite of high tariffs, because we cannot produce enough of them at reasonable prices to supply our needs. Imports of such products have increased because economic conditions in this country have improved, with the result that we have been using greater quantities of both industrial raw materials and foodstuffs. The increases in the value of imports have reflected both larger quantities entered and higher prices. The leading items in this group are vegetable oils and oilseeds, dutiable types of wool, hides and skins, certain types of nuts, molasses, longstaple cotton, wrapper tobacco, field and garden seeds, sausage casings, olives, and dates. These enumerated items account for \$178,000,000. The remaining \$83,000,000 is made up of a large number of small items distributed throughout all of the categories

Thus, in summary, the figures with reference to the increase in our agricultural imports between the fiscal year ended June 30, 1934, and the fiscal year ended June 30, 1937, stand as follows:

Gr		ss of 1936–37 is over 1933–34
	Products not grown in the United States or substituted for domestic farm products (major items only)	\$252,000,000
	<ol> <li>Products the imports of which were affected by the great droughts of 1934 and 1936 (major items only)</li> </ol>	
	<ol> <li>Sugar</li></ol>	45, 000, 000
	needs (major items only)5. Residual of small items distributed through-	178, 000, 000
	out groups 1, 2, and 4 above	83, 000, 000

Total increase in imports of farm prod-ucts, 1933-34 to 1936-37\_\_\_\_\_

699,000,000

The assumption that large imports of agricultural products de-The assumption that large imports of agricultural products denote distress to farmers is not warranted. Agricultural imports exceeded \$2,000,000,000 every year from 1925 to 1929, and in none of these years was domestic production curtailed by drought to anything like the extent experienced in 1936. As a matter of fact, there is a direct correlation between imports and farm income. For example, in 1929, when farm income amounted to nearly \$12,000,000,000, agricultural imports totaled \$2,218,000,000. In the succeeding depression years farm income and agricultural imports declined in about the same degree, both of them reaching a low in 1932, when income was \$5,337,000,000 and imports \$668,000,000.

declined in about the same degree, both of them reaching a low in 1932, when income was \$5,337,000,000 and imports \$668,000,000. Since then the two have increased again, with imports only a little larger in proportion to farm income than previously, and this is fully explained by the droughts of recent years and the rapidly increasing imports of agricultural raw materials in consequence of economic recovery. I take it that you would not view the latter of these causes as a matter for regret.

There is no basis whatever for the belief that duty reductions in reciprocal trade agreements have been a major cause of the increase in agricultural imports in the past year. This is strikingly shown by a comparison of the increases since the trade agreements became effective in items upon which the duty has been reduced and those on which it has not. Most of the trade agreements, other than the one with Cuba, went into effect between May 1935 and June 1936. Accordingly, by segregating items on which duty reductions have been made in trade agreements and those on which no reduction has been made and comparing imports in the first half of 1935 with the first half of 1937, an indication can be had of the relative importance of duty reductions and other factors in increasing imports. had of the relative importance of duty reductions and other factors in increasing imports.

Take, for example, foodstuffs. The figures show that, excluding sugar, imports of which are regulated by quotas, there was a total increase of \$112,643,000 in imports of the principal foodstuffs in the first half of 1937 as compared with the same period 2 years earlier. But note how this was comprised. Of the total increase, \$56,544,000—more than half—is accounted for by dutiable foodstuffs or foodstuff groups upon which duties were not reduced. A further \$42,410,000 is accounted for by free-list items—on which, obviously, there could be no duty reductions. These two groups, on which there were no duty reductions, account for 88 percent of the total. A third category which is somewhat, but not primarily, affected by there were no duty reductions, account for 88 percent of the total. A third category which is somewhat, but not primarily, affected by duty cuts (groups of dutiable foodstuffs on less than half of which duties were reduced) accounts for \$7,589,000, or some 7 percent, of the total increase. Finally, there is the group consisting of dutiable foodstuffs or foodstuff groups, including wrapper tobacco, on more than half of which the duties were reduced. This group accounts for just \$6,100,000, or 5 percent, of the total increase. It is of interest also to note that imports of dutiable foodstuffs on which no tariff reductions were made increased by 77 percent, whereas impressed of also to note that imports of dutiable foodstuffs on which no tariff reductions were made increased by 77 percent, whereas imports of that group of foodstuffs on the greater portion of which the duties were reduced, increased by only 41 percent. (Imports of "free list" foodstuffs increased by 33 percent; and of foodstuffs not primarily subjected to duty cuts, likewise by 33 percent.) It is clear from these figures that factors other than trade agreements must have been chiefly responsible for the increases in imports which took

A complete list of changes in import duties since the passage of the Tariff Act of 1930, prepared by the United States Tariff Commission, is enclosed.

While the concessions that we have granted with respect to agricultural products have been unimportant to our farmers, the value of the agricultural concessions obtained from other countries is considerable. In spite of the extreme policies of protection for agriculture in many foreign countries and the consequent difficulty of obtaining concessions on agricultural items, tariff and tax reductions, and liberalization of import quotas have been obtained on agricultural commodities which comprised about one-third of our 1929 agricultural exports to the countries with which agreements have been concluded. Duties on agricultural products constituting almost another third of imports have been bound against increases

during the life of the agreements, thus bringing up to some 60 percent the value of all agricultural products favorably affected. Especially valuable concessions were obtained from Canada, which country reduced its duties on about 125 agricultural and horticultural

products imported from the United States.

While significant increases have occurred in exports of a number of agricultural products for which concessions have been obtained, the full benefits have not been realized up to the present time because of greatly reduced surpluses or actual shortages of some of the most important farm products in consequence of severe droughts. I am enclosing a list that enumerates the important export products benefiting from reciprocal trade agreements signed

up to May 1, 1937.

The direct concessions obtained for exports of farm products do The direct concessions obtained for exports of farm products do not by any means, however, suffice as a measure of the benefits of the trade agreements to agriculture. What is altogether too commonly ignored are the indirect benefits. When increased foreign outlets are obtained for our industrial exports, that inevitably results in expansion of economic activity and employment in our cities and hence a better market at home for American farm products. When it is recalled that our industrial exports were reduced by the contract the condense held bullion deliver between 1928-29 and by over two and one-half billion dollars between 1928-29 and 1932-33, the magnitude of the sums involved is apparent. If we regain a substantial part of this lost trade in consequence of trade agreements, as we are already commencing to do, the results, in terms of increased employment and purchasing power for prod-ucts of both farm and factory, right here in our own market, will

Another indirect benefit to agriculture resulting from the trade agreements is their tendency, insofar as they increase outlets at home and abroad for such products, to check the diversion of land and labor from production of export crops to crops raised for domestic consumption. An outstanding example of this is cotton, exports of which have been reduced by lack of buying power in many foreign countries and by other factors. Unless export outlets

many foreign countries and by other factors. Unless export outlets for cotton are maintained, large areas in the South will ultimately be used for the production of farm products which in the past have customarily been purchased from the Middle West.

It hardly needs to be recited that as a general proposition agriculture stands to gain far more by a liberal commercial policy and to lose far more by a high tariff than other elements of our population. The price of the bulk of what the farmer produces is to lose far more by a high tariff than other elements of our population. The price of the bulk of what the farmer produces is governed by world prices and no amount of tariff can increase his return. What the farmer buys, on the other hand, is protected and, more often than not, the cost is higher as a result of import duties than it otherwise would be. The trade-agreements program, by lowering excessive duties in exchange for concessions by other countries, is designed to lessen this discrepancy. Opponents of the program, whether intentionally or otherwise, are in effect advocating the perpetuation of a long-standing policy of tariff discrimination against the farmer. tion against the farmer.

Those who continue to advocate higher import duties to protect Those who continue to advocate higher import duties to protect the farmer seem to forget the terrible experience that we had with excessive tariffs only a few short years ago. The misery and confusion that befell our people in the years prior to 1933 were felt by none more acutely than the farmer. The Smoot-Hawley tariff, which was protectionism run amuck, ushered in the most disastrous period in the history of American agriculture. In my opinion, no greater disservice could be rendered to our farm population than by alienating their support of our present liberal trade policy, which is not only the most effective way of safeguarding our farmers from a return to the conditions prevailing under the Smoot-Hawley Act, but is also the policy which offers the only solid foundation for peace. Sincerely yours,

CORDELL HULL.

The SPEAKER. The time of the gentleman from Texas has expired.

# ORDER OF BUSINESS

Mr. RAYBURN. Mr. Speaker, this is District Day and that committee would have had the day, but the committee, through its chairman, has informed me they are not ready to proceed.

# EXTENSION OF REMARKS

Mr. SPENCE. Mr. Speaker, I ask unanimous consent to extend my remarks in the Record by inserting therein a radio address delivered by myself over WCKY.

The SPEAKER. Is there objection? There was no objection.

# LEAVE TO ADDRESS THE HOUSE

Mr. MAPES. Mr. Speaker, I ask unanimous consent that I may be allowed to proceed for 15 minutes after the special orders which have been made today.

The SPEAKER. Is there objection?

There was no objection.

Mr. SCOTT. Mr. Speaker, I ask unanimous consent that at the conclusion of the special orders which have just been granted I be permitted to address the House for 30 minutes.

The SPEAKER. Is there objection? There was no objection.

#### EXTENSION OF REMARKS

Mr. THOM. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD by including therein an address delivered by me over the radio in Canton, Ohio, on the unemployment census.

The SPEAKER. Is there objection?

There was no objection.

Mr. THOMAS of New Jersey. Mr. Speaker, I ask unanimous consent to extend my remarks in the Record at this

The SPEAKER. The gentleman from New Jersey asks unanimous consent to extend his remarks at this point in the RECORD. Is there objection?

There was no objection.

GOVERNMENT MONOPOLY HAS CAUSED THE SHARP RISE IN LIVING COSTS

Mr. THOMAS of New Jersey. Mr. Speaker, President Roosevelt has just requested the Federal Trade Commission to investigate certain monopolistic activities with a view to determine to what extent they have a bearing on the increased cost of living. It is inferred from this that the President may believe that monopolistic activities are responsible for our present high cost of living.

This latest move of the President has undoubtedly been made in all sincerity; but if the President truly believes that our rapid rise in cost of living is mostly due to monopolistic conditions existing in this country today, he has been badly

advised.

I do not pretend to be an economist or even a statistician, but I do know as a businessman and one who pays all kinds of taxes that the high cost of living in this country today is due in most part to our present topheavy cost of government. The ever-increasing extravagant aims and desires of the politicians, both big and small, have built up a governmental structure which is placing a tax burden on the people's backs far out of line with their willingness and ability to bear.

These taxes, unlike in the old days, when only property owners or the rich, or both, assumed the load, are now being forced upon all the people—the heaviest load being on the people least able to pay. When one considers that 25 percent of every dollar earned by the people of the United States is paid to the Government in the form of taxes, either direct or indirect, to support the costs of administering the Government, and that 89 percent of the revenues now derived from administering the Government are taken from persons earning less than \$5,000 per year, then one does not have to look very far to determine what has caused and is causing an increase in the cost of living.

The politicians, of course, have tried to cover up their extravagant ways by taxing the people, including that onethird whom the President has termed the ill-fed, the illclothed, and the ill-housed, via the hidden route.

But the people are awakening to the politicians' shell game of taxation and are beginning to demand more tax knowledge; and if a Congressman's mail is any indication, they are even beginning to demand tax relief.

As taxpayers they are entitled to every bit of tax knowledge that our Federal Government and governmental subdivisions can give them. As taxpayers they should only be compelled to pay a tax commensurate with their ability to pay and nothing more than is absolutely necessary to carry on an efficient, economical form of government, which, of course, includes adequate relief for the worthy unemployed.

Those of us who represent the people are therefore responsible in seeing that the taxpayers, who are now all of the people, are protected from extravagant governmental tendencies. We are the trustees for the taxpayers' funds as well as the guarantors of the taxpayers' peace and happiness.

Consequently it is our duty to investigate all of the things and immediately the clearly important ones that have so apparently brought about our present high cost of living. To stop with an investigation of monopolistic activities is both wrong and unjust. We must by all means accompany the

Federal Trade Commission's investigation with another investigation of the various taxes which go to make up the wholesale and retail price of commodities. We must not allow even the President of the United States to draw a red herring across the hottest trail. If we do, it will be a breach of our trusteeship and guaranty to the people.

Therefore I would like to call the attention of the Members of the House to House Joint Resolution 409, introduced by me on June 14 of this year and now in the Committee on Ways and Means, which resolution requires—

First. That a study and survey of all taxes which are required to be paid by any persons engaged in the business of manufacturing or processing on major food commodities, whether such taxes be paid to the United States or any State, Territory, or District government, be undertaken by the Department of the Treasury under the supervision of the Secretary of the Department of the Treasury or such assistants in said Department as the Secretary may designate.

Second. That the Department of the Treasury shall submit a written report of its study and survey to the next session of Congress, and shall embody in its report specific drafts of legislation which will require all persons engaged in the business of selling major food commodities to label such commodities in a manner that the purchaser for use may readily find such marking at the time of purchase and ascertain the amount of taxes which have been assessed or paid in the course of manufacture or processing of such particular major food commodities.

If this resolution and its resultant tax-label legislation should pass, I am positive that at least two things will be accomplished:

First. That we will have a clear picture of what hidden taxes are being placed on food; and

Second. That the people will become more tax conscious by continually reading the tax labels on the food purchased by them.

So it is my hope that the Ways and Means Committee will regard the resolution in a nonpartisan light and report the same favorably at an early date to the House, where all the Members of Congress will have an opportunity to show by their actions that they, too, believe that we should investigate immediately the outstanding thing which has so greatly increased the cost of living.

I personally am certain also that Government monopoly rather than business monopoly has contributed more to the sharp rise in living costs. That practically every single item of food is pyramided with certain Federal taxes; that the practice of hidden taxes has become a vicious one, and that it can only be halted when the public is permitted to know how much of each dollar spent on food is gobbled up by the Government in this unseen manner. There will only be a downward revolution in the cost of living when the public becomes tax conscious in its entire buying habits. That point will be reached when hidden taxes are driven in the open and the Federal Government is forced to seek revenue in a more equitable way.

# EXTENSION OF REMARKS

Mr. WHITE of Idaho. Mr. Speaker, I ask unanimous consent to extend at this point in the Record my remarks made before the Northwest Mining Association.

The SPEAKER. Is there objection to the request of the gentleman from Idaho?

There was no objection.

Mr. WHITE of Idaho. Mr. Speaker, of late we have heard and read so many misleading and erroneous statements concerning the Government's silver-purchase program that, with the indulgence of the Members of the House, I desire to present the facts concerning silver for their consideration.

# PRESENT STATUS OF SILVER

Before proceeding to discuss the status of silver today, let us review briefly the history of our Nation's monetary system since silver was demonetized in 1873. I find that the effect of discarding silver as a basic money has been to force the Government to adopt one substitute after another for silver in

our currency system, and that these substitutes have failed to meet the requirement of the American people for a stable monetary system, a failure that has resulted in price declines and depressions and which has caused the people of the United States incalculable losses and business recessions.

Let us turn to the record of the substitute measure for silver as a basic money. To relieve the financial depression following the demonetization of silver in 1873, Congress passed the Bland-Allison Act in 1878, which provided for the purchase of a limited amount of silver at a dollar an ounce. The Bland bill, as it was passed by the House, remonetized silver at the ratio of 16 to 1, which was amended in the Senate by Allison to a Silver Purchase Act. This law was later changed by the Sherman Purchase Act by increasing the amount of silver to be purchased at a dollar an ounce from 4,000,000 to 4,500,000 ounces per month, to be paid for with Treasury notes.

Had this act provided that the silver purchased would be paid for with silver certificates, redeemable in silver dollars as the Government does today, the bankers who were opposed to silver would not have been able to embarrass the Government and discredit silver by demanding and securing the redemption of the Treasury notes paid out for silver in gold which drained the Treasury's gold reserve on hand to pay the interest and principal on outstanding Government bonds which were payable in gold. The long struggle that followed over silver and the success of the bankers and financiers in having the Purchasing Act repealed, followed by a period of business prosperity resulting from boom period in the production of gold, has served to fix in the public mind the illusions that silver is unnecessary in our monetary system, and its use as money is a form of subsidy to the silver miners.

After the repeal of the much-debated Sherman Silver Purchase Act, unprecedented developments in the gold producing industry seemed for a time to provide the necessary volume of basic money to stabilize our currency system as a foundation for the business prosperity for a brief period following the monetary struggle of 1896. I refer to the discovery of gold in the Klondike, the perfection of the cyanide process for working low-grade gold ores, and the discovery and production of the gold mines of the Rand in South Africa when the world's gold stock was more than doubled in the short period following. I believe statistics show that the world's gold stock increased from five and one-half billion to twelve billion between 1896 and 1910, during which period the flow of new gold into the channels of trade and business provided for the steady increase in the volume of basic money to meet the fundamental requirement of economic law, that the volume of money must increase and keep pace with the growth of population and expansion of business. At the close of this period in our financial history when the demand for money again outran the production of gold, with the resultant fall in price levels, our Government found it necessary to devise and adopt another substitute for silverthe Federal Reserve Banking System and the Federal Reserve bank note-in short, a managed currency supported by interest-bearing obligations classed as "eligible paper" modeled very closely after the English system of bills of exchange. This substitute was proclaimed as the final solution of our monetary problem by establishing a system in which we were enabled to conduct our business with money based on the natural wealth of our country. But in 1929 we awoke to the fact that, like all other substitutes for silver, the Federal Reserve System had failed most disastrously, and when it seemed that at last, in the light of reason backed by experience, our Government would establish a stable monetary system based on the age-old and proven automatically controlled metallic money system using the precious metals, gold and silver, at the ratio fixed by nature-16 to 1-was to be established as the foundation on which business would be reconstructed. The bankers and financiers intervened to successfully protect their interest-yielding monetary system by drawing on the collective credit of the people of our Nation and established the Reconstruction Finance Corporation, another substitute for silver money, and here we find the greatest reservoir ever built for the storage of accumulated wealth out of reach of taxation. Remember the lending of the R. F. C. is financed by the sale of tax-exempt Government bonds. Instead of remonetizing silver to provide an adequate workable monetary system and release us in part from the tribute we were paying in good American products to the producers and manipulators of gold, we devalued our dollar and increased the price of the commodity, gold, 70 percent of which is produced in the British Empire, by \$14.33 an ounce, overlooking the fact that by remonetizing silver we would have effectively devalued gold and enhanced the value of the commodity, silver, produced principally in our hemisphere and largely as a byproduct of our mining industry, so much for the substitutes for silver.

Now we find our Nation is \$36,000,000,000 in debt, which in a large measure can be charged to the failure of our Government to provide our people with a stable and adequate money system, and on which we must raise over a billion dollars annually to pay what is glibly called by financiers "the service charge on the national debt." Do not forget, it is interest on tax-exempt Government bonds. We are still floundering in the morass of financial uncertainty with our money problems still unsolved. Can anyone even begin to compute the loss sustained by the American people due to the failure of our Government to establish an adequate workable monetary system based on a stable monetary unit so aptly described by President Roosevelt when he said:

The United States seeks the kind of a dollar which in a generation hence will have the same purchasing and debt-paying power as the dollar value we hope to attain in the near future.

In other words, a stable dollar.

In coming to the present status of silver in our monetary system and keeping in mind the effect of the money shortage in recent years and the loss that has been sustained by the American people due to the failure of the Government to provide the necessary volume of money to meet the requirements of business, the fundamental principle involved and the facts concerning the administration's silver-purchase program, with the benefits that have been derived from this program by the American people, it is disconcerting to find that many newspapers which I feel must be interested in the continued prosperity of our people and a development of our mining industry are publishing misleading statements contained in the propagandized syndicated articles on silver eminating from eastern sources.

It is apparent that this is a part of an insidious propaganda waged by selfish interests against the Federal Government's silver policy, a money program that has made the greatest contribution in history to the rehabilitation and stability of our monetary system. The propagandist writes:

Most everyone will agree that silver is useless, because we have no need for it in our currency structure.

What are the facts with reference to the Government's silver policy, how does it operate, and what effect has it on business and the welfare of the American people? Every ounce of silver the Government has is in use as money, the great bulk of it circulating in the hands of the American people in the form of silver certificates, in bills of smaller denominations. The dollar bills so popular in the East are exclusively silver certificates, and when we consider the velocity with which these small bills circulate, it is apparent that a much larger proportion of business is handled by these silver certificates than by the larger Federal Reserve notes.

Surely this propagandist had access to the daily balance sheet of the Treasurer and must know the facts about silver. Let us turn to the Treasury Statement of August 12th (the date on which one of these articles appeared). On the credit side of the Treasury Statement we find that the silver on hand in dollar value is a billion and a third. To give the exact item:

Silver dollars	\$864, 674, 680.31 505, 222, 611.00

Total\_\_\_\_\_\_1, 369, 897, 291. 31

On the debit side we find that almost a billion and a third of this silver is out in circulation in the form of silver certificates; to be exact:

 Silver certificates outstanding
 \$1,325,539,111.00

 Treasury notes of 1890 outstanding
 1,171,922.00

 Silver in the general fund
 43,186,258.31

With the exception of the money derived from the devaluation of gold which is in a stabilization fund and is not in circulation we must remember that this money (silver certificates) in circulation is the only money-issue of the Treasury in which the American people is making a profit, and most important of all this money circulates in the hands of the people without yielding interest to any issuing bank.

There is carried in the Treasury balance sheet of this date the item of \$369,882,927.45 silver seigniorage, representing the Government's profit on silver. Disregarding these facts, the propagandist has the nerve to tell us that "the program is actually a tax upon the American people."

Now what is wrong with the Government's silver policy as these bankers see it and the real reason for the opposition of the big bankers and money changers expressed through their paid propagandist?

It is a simple fact that they, the bankers, are losing the interest on this money that is in circulation, which can be conservatively estimated at \$30,000,000 a year, calculated at 3 percent on an even billion dollars, which would flow to the bankers if the silver certificates were retired and replaced by Federal Reserve notes.

If we can obtain the exact figures on the amount of interest that would be collected on the "eligible paper" required by the bank to support a billion dollars worth of Federal Reserve notes to be issued into circulation, to replace the outstanding silver certificates, doubtless we would find that the interest would be considerably in excess of the estimated \$30,000,000.

When we take these facts into consideration is there any wonder that there is an organized propaganda to discredit the Government's silver program?

The propagandist says, "We must realize and recognize that a silver certificate occupies exactly the same place in our currency structure as does a bill that is backed by gold or one that is issued by the Federal Reserve banks."

But let me call attention to the vast difference between a dollar circulating as a silver certificate based on seveneighths of an ounce of silver valued at \$1.291/2 an ounce, with a profit to the Government of 52 cents an ounce, circulating in the channels of trade interest free, and a dollar circulating as a Federal Reserve note loaned into circulation by a bank at a current rate of interest based on interest-bearing. eligible (commercial) paper, which in turn is based on fluctuating commodity prices, with a 40-percent gold coverage or Government bonds—a dollar which must be supported during the entire time that it is in circulation by interest-bearing obligations—a dollar which under the rules of the Federal Reserve Banking System will be automatically retired from circulation when unfavorable business conditions restrict business borrowing, with a resultant contraction of the volume of the money in circulation and consequent fall in price levels with such disastrous effect on business and employment as we have seen.

Let us compare the difference between money that circulates interest free and money that must yield current rates of interest to bankers for every day it remains in circulation, and decide if we will be among "the voters who will wake up to the necessity for the repeal of the Silver Act."

After the bitter experience of the American people during the period of the low price for silver and the irretrievable losses that have been inflicted on many of us, I doubt that the majority of the American people will again be fooled into cutting off this important source of basic money on which our credit structure rests, or upset price stability by dumping our silver on the world market, thereby contracting our money volume by withdrawing our interest-free silver certificates from circulation.

Let us hope that, for the good of our Nation, the security of our investment, the relief of unemployment, and the continuation of business prosperity throughout the country, the American people are informed on money and will not be misled by vicious propaganda, and that the schemes of the money changers to discredit silver and increase the interest load on the American people will fail.

Mr. DIRKSEN. Mr. Speaker, I ask unanimous consent to proceed for 30 seconds.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. DIRKSEN. Mr. Speaker, in any consideration of the relation between the undistributed-profits tax and the present business depression, I believe that the rule of reason should be applied, and in considering it from that point I ask unanimous consent to extend my remarks in the Record.

The SPEAKER. Is there objection?

There was no objection.

Mr. DIRKSEN. Mr. Speaker, we are in a business slump. The President alluded to it in his message. If further evidence is needed, the November report of the Federal Reserve Board shows a downward trend for freight-car loadings, factory pay rolls, factory employment, construction, and industrial production. Residential construction is especially quiet. Taking the 1923–25 period at 100, the index for residential construction stood at 44 in August and dropped to 38 for September.

Business slumps are bad. To labor they mean shortened workweeks or unemployment and diminished purchasing power. To the farmer they mean an impaired domestic market for farm products. To retailers they mean diminished sales volume. To industrialists they mean expense and uncertainty. To those administering the Government they are ominously prophetic of increased relief and unemployment relief funds.

This downward trend must be stemmed. It is not a political or partisan problem. It is a national problem. There may be some who can find political comfort in a business recession because it brings embarrassment to those who have been shaping and charting national policies. I can find no such comfort. No matter how a business recession came about, it brings pain, anguish, unemployment, distress, and loss in its wake. Only one fact stands out: This condition needs attention, and the sooner the better. Perhaps more than one remedy is necessary to effect a cure. Some contend that no remedy is the best remedy. They are like the sick Chinaman, who said: "Me gettee sickee. Me callee Dloctor Sing Lee. Me gettee more sickee. Me callee Dloctor Wong Sin. Me gettee more sickee. Me callee Dloctor Moy Wing. He no comee. Me gettee bletter."

I can, however, think of one remedy that may be partly efficacious and which represents an attempt to cure this condition: It consists of a revision, modification, or alteration of the surtax on undistributed profits.

It must be recognized, however, that if it is to be revised so as to result in a loss of revenue, this revenue must be found in a different source. To repeal or revise this tax without a substitution of other revenue could only mean a more pronounced unbalancing of the Budget.

At the time the bill embodying the surtax on undistributed profits was before the House I suggested retaining the existing corporate income, excess-profits, and capital-stock taxes with an increase in rates. Instead, the rates of the three last-named taxes were reduced and the surtax on undistributed profits was added. Now the Congress is faced with a demand for modification of this tax on the ground that it has injured the smaller corporations.

Perhaps a concrete appraisal of all corporate taxes would not be amiss. First comes the capital-stock tax. It consists of an excise tax of \$1 per \$1,000 of the adjusted declared value of the capital stock of a corporation. The corporation makes its own declaration of value. It can set any price on its stock that it desires. This looks alluring. It contains a stinger, however, because the excess-profits tax is closely linked with the capital-stock tax. Under the 1935 law, 10 percent of the declared value of the capital stock may be deducted from net income before the excess-profits tax applies. If the capital-stock value is placed high, the deduction is correspondingly higher and the excess-profits tax is reduced. If the value of the stock is placed at a low valuation, the deduction is less and the excess-profits tax is therefore higher. Now comes the tax. In fact, it is two taxes. It consists of 6 percent on that part of the net income which is in excess of 10 percent but not in excess of 15 percent of the adjusted declared value of the capital stock and 12 percent on the balance that remains after this 10-15-percent item has been deducted from the net income that is subject to excess-profits tax. Next comes the corporate income tax, ranging from 8 percent on the first \$2,000 of adjusted net income to 15 percent on all over \$40,000 of such adjusted net income.

In addition to these, we have the surtax on undistributed profits. This must not be confused with the surtax which is levied on corporations that are formed for the purpose of improperly accumulating profits for shareholders nor with the surtax that is levied on personal holding companies. The surtax on undistributed profits is levied on most private corporations, with some exceptions, regardless of the reason for its failure to distribute profits to its stockholders. In general, it is computed as follows: The adjusted net income of a corporation is determined by taking its net income after all allowable deduction and deducting from such net income the normal income tax which it pays and also the interest received on Government obligations. From this adjusted net income a further deduction is permissible as a credit for dividends paid and also a credit for the restrictions that might be imposed upon a corporation by contract against the payment of dividends. The undistributed net income thus ascertained is then subject to a progressive tax which begins with 7 percent on that portion of the undistributed income which is not in excess of 10 percent of the adjusted net income and runs to 27 percent of that portion of the undistributed net income which is in excess of 40 percent of the adjusted net income. In the case of small corporations whose adjusted net income is less than \$50,000, a specific credit is allowed. This credit is equal to that portion of the undistributed net income which is in excess of 10 percent of the adjusted net income but not to exceed \$5,000.

In the case of a small corporation with an adjusted net income of \$35,000 and an undistributed net income of \$15,000, the specific credit would be only \$1,500. The tax on such a corporation, if it failed to distribute the profits would be 7 percent on the specific credit of \$1,500, 7 percent on the next \$3,500, 12 percent on the next \$3,500, and 17 percent on the next \$6,500, making a total tax of \$1,875 in addition to all other aforementioned taxes. Manifestly, such a tax in addition to all other taxes is burdensome enough on any business enterprise but it is particularly onerous upon small corporations.

To how many corporations do these taxes apply? Covering the year 1936, 564,379 corporations filed corporate incometax returns, 592,195 filed returns under the capital-stock tax, and 170,359 corporations paid corporate-income taxes. Unfortunately, a current break-down of the number of corporations for 1935 and 1936 are not available for the purpose of determining which are small and which are large. However, some idea can be gleaned from the statistics for 1933 as carried in the Statistics of Income for 1933, issued by the Treasury Department. Out of 109,786 corporate returns which showed net income, 103,686 were under \$50,000. That indicates that 94 percent of all corporations reporting net income were under the \$50,000 net-income class. To be sure, allowance must be made for the fact that 1933 was a most abnormal year, but even when such allowances are made, it is only too apparent that the vast majority of corporations are

in what might be termed the "small corporation" class. Here then is a starting point for our deliberations on this subject.

Now let us proceed to a discussion of the genesis of the surtax on undistributed profits. It is not a new idea. It was advocated as early as 1920 by Mr. Houston, Secretary of the Treasury. Since then it has been advocated or recommended by other students of taxation and taxation agencies, notably the National Tax Association. While the idea is not new, its earlier proponents scarcely had in mind carrying it to the extent that was finally embodied in the bill as passed by Congress.

Its purpose, of course, was obvious. Retained profits in the hands of the corporation were not taxable and there was thereby developed a huge reservoir of retained profits, which, if made subject to taxation, might conceivably raise the \$620,000,000 that was estimated to be needed to cover the bonus and soil-conservation requirements and thus prevent inroads upon existing revenues. The alluring prospect, however, failed to take into account the economic effects of the tax. I can see both the need and justification for some sort of tax that will prevent impounding of dividends to the point where the Federal Treasury suffers, but while recognizing these virtues, it becomes all the more necessary to set up such a tax as to rates and credits as will do no specific harm to the business structure.

Now for a brief examination of this new tax and its economic and business effects.

First. It creates an inequity of treatment as between large and small corporations. For one thing, large corporations can avoid the tax by issuing stock dividends instead of paying cash. They have the facilities for so doing. They have the legal equipment to do so without difficulty. They have a large capital structure, and it will not be so easily distorted by additions to that structure in the form of stock dividends. And, finally, they are on good legal ground, because the Supreme Court, in the case of Eisner against Macomber—1920—and the case of Koshland against Helvering—1936—recognized that within certain limits stock dividends are not taxable in the hands of the holder. Little corporations, on the other hand, cannot resort to these practices without undue trouble and expense, and thus the law makes it possible for large corporations to avoid without a similar benefit to small corporations.

Second comes the familiar contention that the tax has prevented small corporations from plowing back their earnings so that they might expand their business. To be sure, an effort was made to assist small businesses by reducing corporate rates on the first \$40,000 of their income and by providing a specific credit, but neither of these have accomplished much good for a number of reasons. The reduction in corporate rates was quite small. The specific credit for corporations with income under \$50,000 has been so interpreted by the Treasury as to make it small indeed and of little consequence. And, finally, if the maximum benefit of both of these provisions are taken into account, the surtax still operates to penalize the expansion of small business and compels them to borrow money into the market for that purpose. This fact is significant in its relation to unemployment. If it is agreed that we need plant expansion and expanded production, particularly on the part of scattered small corporations, to take up unemployment slack, this tax has divested them of all incentive for so doing, and it therefore operates to freeze unemployment.

Third. Small corporations have still another complaint in that the tax operates to penalize those corporations that have had a turbulent time weathering the depression and now need these earnings with which to retire debts that have been incurred. To be sure, this story, like all stories, has two sides. If debts have been incurred for plant expansion, such capital expansion redounds to the credit and enhances the value of the holdings of the stockholders.

That is a bit legalistic. On the other side is the economic aspect. Small corporations seemingly must borrow proportionately more and must borrow oftener than large corporations with huge assets, and use borrowed money for current

accounts that less frequently represent plant expansion but rather expansion of production. If they are to be penalized for holding earnings that are intended for debt payment but must now be paid out to stockholders, it not only jeopardizes the safety and solvency of such small corporations but it is again reflected in freezing unemployment. At this point a queer case comes to mind, namely, that of a corporation that sought to retire its indebtedness to the R. F. C. out of earnings but could not do so without making itself liable to the surtax. There is a provision in the law that a proportion of the earnings may be set aside to pay debts but only where a written contract existed before May 1, 1936, specifically earmarking such earnings for that purpose. Doubtless preexisting debts have been incurred where there is no contractual undertaking for their repayment out of earnings and yet the law prevents their payment out of earnings without becoming liable for the tax so that, in effect, it imposes a penalty on a company for paying its debts. Such debt payment may in many cases spell the difference between staying in business or going out of business but the present law takes no account of that consequence. Moreover, the term "debt" as used in the law does not embrace the obligation running from the corporation to its stockholders so that payment into a sinking fund to retire stock as required by some previous arrangement would not free the corporation from paying the tax on the earnings retained and used for that purpose. All in all, it may be said that the tax as now set up distinctly penalizes well-intentioned small corporations that are only now getting on their feet after the ravages of the depression, and, surely, it was not intended that the law should work in such fashion as to jeopardize the continued existence of such small corporations that have managed to keep men on the pay roll.

Fourth. Still another complaint which small corporations might make is that the tax can to some extent be avoided by larger corporations with greater ease and convenience by the payment of bonuses to officers, higher salaries, larger allocations for advertising and similar devices. Where avoidance is effected by such corporations through employee bonuses and higher wages it serves a most salutary purpose and does in fact achieve the objective of forcing earnings into the hands of those who will spend them and who may be taxed on such additional earnings. If small corporations undertake any of these methods, they may successfully avoid the tax but it still leaves them on thin ice so far as reserves and necessary capital are concerned.

Fifth. A general criticism of the whole theory of a surtax on undistributed profits as the law now stands is that it encourages debt, and the incurring of new debt, strangely enough, operates to set up new items of deductible expense. Where reserves are depleted and a corporation finds it necessary to borrow, it is obvious that new interest charges are incurred. Not only must such interest charges be met out of future earnings but such interest is a deductible expense for purposes of corporate income tax. Thus we see the tail catching up with the head.

In any discussion as to whether this surtax on undistributed profits should be repealed or revised it is extremely necessary to apply the rule of reason. All the logic and all the virtue are not on one side. From the Government side, it should be admitted that all corporations have not been adversely affected by this tax; that there have been abuses in impounding earnings to avoid taxes; that a tax of this nature does exercise a species of control over huge corporations; and that you cannot arbitrarily chuck such a tax into the wastebasket without substituting some other measure to provide an equal amount of revenue. It is a patent fact that until economies are effected there must be adequate revenues if the Budget is ever to be brought into balance. From the side of business, the rule of reason demands that we recognize that this tax is in addition to excess profits, capital stock, and corporate income taxes and not in lieu thereof. except insofar as a slight reduction has been made in the rates on the above taxes. Moreover, we cannot be insensible to the fact that business, like every other element, has come

through the depression in somewhat bent and crippled fashion and that it must again accumulate reserves to weather the next slump, if and when it comes.

With these considerations in mind, what reasonable recommendation can be made looking toward a revision of the surtax on undistributed profits as it now exists and in the whole field of taxation that will be salutary for business and fair to the Government and to the people? Without pretending to expert knowledge on the subject, may I respectfully submit the following recommendations:

First. If the present act is to be amended, that the provision relating to a specific credit be clarified and that a substantial specific credit stated in terms of percentage of adjusted net income be included. Nor should such a specific credit be limited to capital expansion. The earnings made available to a corporation by such a credit should be available for use in current production as well as capital expansion. Current production means jobs, and jobs are the great need at the moment.

Second. The specific credit should remain free from any tax and thereafter the rates and brackets might be revised. As it now stands, the rates are 7 percent on the first 10 percent of adjusted net income, 12 percent on the next 10 percent, 17 percent on the next 20 percent, 22 percent on the next 20 percent, and 27 percent on the last 40 percent. After allowance for a substantial specific credit, the rates and brackets might be adjusted to impose a tax of 7 percent on the first 25 percent of adjusted net income, 12 percent on the next 25 percent, and 17 percent on the remaining 50 percent. To account for the deficiency in revenue that would result from such changes, the rate of tax on corporate income could be revised upward from where it is at the present time.

Third. We should shun any suggestions of "new" taxes, and especially a glorified sales tax, which masquerades under the euphonious name of a manufacturer's excise tax. Such taxes are a sham and a subterfuge which make every hardware store, drug store, grocery store, filling station, and haberdashery a tax-collection agency for the Federal Government and lay a heavy hand upon a group of citizens who are least able to bear additional tax burdens.

Fourth. Some thought should be given to the idea of working out an employment credit against Federal taxes on industry. Unemployment causes people to go on relief. Relief requires expenditures out of the Federal Treasury, as the last years so eloquently witness. Expenditures mean more taxes. Higher taxes mean curtailment of business enterprises, and curtailment of such enterprises means freezing our present unemployment load. In his message the President said:

Obviously an immediate task is to try to increase the use of private capital to create employment. Private enterprise, with cooperation on the part of the Government, can advance to higher levels of industrial activity than those reached earlier this year.

In this plan of cooperation between Government and private enterprise, why not develop a formula under which a portion of the tax on business can be remitted or credited for each person who is added to the pay roll over and above a certain normal labor load? Industry and business must carry the load if there is to be a solution of the unemployment problem. And if industry shall and must carry the load, it should be given some incentive for assuming the load instead of being bashed over the head with punitive taxes. I do not presume to present such a formula, but inasmuch as the N. R. A. and the A. A. A. were reduced to formulas, it is not too much to expect that an employment-tax credit could be worked out without unusual difficulty, or administrative expense.

Fifth. Finally, the matter of tax-exempt securities should have immediate attention. Ever since my advent to Congress it has been discussed and debated, but no action has been taken. Congress has not acted on the matter, and the Treasury has made no specific recommendation thereon for immediate action. In the course of the hearings on the Revenue Act of 1936, a table was inserted—page 45—showing that as of June 30, 1935, there was outstanding \$31,285,000,000 in securities, the interest on which is wholly exempt

from normal income tax and surtax by the Federal Government. This total includes \$16,895,000,000 issued by States, counties, cities, and other political subdivisions—\$12,801,000,000 in United States Government securities, \$118,000,000 issued by Territorial and insular possessions, and \$1,471,000,000 issued by the Federal Farm Loan System. Here is a vast reservoir of tax revenue which, if tapped, would relieve the tax pressure on business and timid capital and bring about an equitable adjustment in our tax structure. I am not unmindful of the difficulties that stand in the way in bringing this about. There have been difficulties before, and it is not too much to expect that if the matter received sustained attention, a start could be made toward legislation that will ultimately make this vast source of income available for taxation purposes.

### LEAVE TO ADDRESS THE HOUSE

Mr. ELLENBOGEN. Mr. Speaker, I ask unanimous consent that after the disposition of matters on the Speaker's desk tomorrow I be permitted to address the House for 10 minutes.

The SPEAKER. The gentleman from Pennsylvania asks unanimous consent that tomorrow, after the disposition of matters on the Speaker's table and the legislative program, he be permitted to address the House for 10 minutes at the conclusion of the special orders heretofore made. Is there objection?

Mr. FISH. Mr. Speaker, reserving the right to object, on what subject?

Mr. ELLENBOGEN. On the subject of the Home Owners' Loan Corporation, for the purpose of urging the Members of Congress to sign discharge petition No. 26, which will make a special order of business of H. R. 6092, which reduces the rate of interest on mortgages to  $3\frac{1}{2}$  percent and extends the time of payment for 25 years.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

Mr. SNELL. Mr. Speaker, I reserve the right to object to ask the majority leader a question. I understand that this morning the President had all of the leaders down at the White House and that he probably disclosed to them what the program would be. Is there anything that the majority leader can tell the House at this time relative to the program this week?

Mr. RAYBURN. There was no program made at the White House this morning, I may say to the gentleman from New York

Mr. SNELL. Of course, I did not expect a very definite program, but I did not know but that the gentleman could tell us what the orders were for this week. Of course, if the gentleman refuses to answer, well and good.

Mr. RAYBURN. We do not take orders and none was attempted to be given, of course.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

### TRADE AGREEMENTS

Mr. KNUTSON. Mr. Speaker, I ask unanimous consent to proceed for 2 minutes.

The SPEAKER. The gentleman from Minnesota asks unanimous consent to proceed for 2 minutes. Is there objection?

There was no objection.

The SPEAKER. The Chair states that while he has no objection to the two special orders already made, he will not recognize gentlemen to make further remarks without the consent of the gentlemen who are to speak under special orders for today. The gentleman from Minnesota is recognized for 2 minutes.

Mr. KNUTSON. Mr. Speaker, the majority leader a few moments ago stated that the agricultural imports to which reference was made in the report by the Bureau of Agricultural Economics, were of a noncompetitive nature. I refer the gentleman from Texas to a portion of the report, which states that the imports exceeded exports of competitive products by 18 percent. What were those competitive products?—corn,

wheat, butter, eggs from China, ham, veal, beef, cattle on the hoof, sheep, mutton-everything that we produce here, and I say to the gentleman from Texas, the majority leader, that much of the unemployment in this country is due to these damnable trade agreements that have been negotiated, which are giving the great American market to foreigners and getting little in return.

Mr. RAYBURN. Mr. Speaker, will the gentleman yield?

Mr. KNUTSON. Yes; to my distinguished friend. Mr. RAYBURN. I was assured that a small percentage of them were competitive. I said a majority were not competitive.

Mr. KNUTSON. If 18 percent is of no consequence the gentleman's point is well taken, but, nevertheless, it may make the difference between a buying market and a selling market for our producers. We are shipping in shoes from Czechoslovakia and textiles, toys, and matches from Japan in enormous quantities. We need not wonder that there are eight or nine million people out of employment and that daily we hear of from fifteen to twenty thousand people being laid off in the various industries of the country because of falling off in business.

The Department of Agriculture has just published the astounding information that for the first time in our history the imports of competitive agricultural products exceed our exports of agricultural products. Let Secretary Hull try to deny now that our farmers are being sold down the river under the trade-treaty program. He has been contending all along that most of the agricultural imports were of noncompetitive items such as coffee, rubber, and so forth, but we have the official figures of Secretary Wallace's Department to disprove his efforts to bamboozle the farmer.

Just think of it: In the last fiscal year the imports of competitive farm products increased to \$1,538,000,000, which is 35 percent more than the year before, yet in the same period our agricultural exports declined 4 percent in value and 10 percent in quantity. What more proof do we need that the administration has sold the farmer down the river? We were told that the trade-treaty program was going to be of such great benefit to agriculture, but it must be that it was foreign agriculture that Secretary Hull had in mind.

Here are some figures on agricultural imports during the fiscal year ending last June 30:

428,000 head of cattle.

150,000,000 pounds of meats, which included 62,000,000 pounds of pork and 85,000,000 pounds of canned beef.

15,000,000 pounds of butter.

66,000,000 pounds of cheese.

10.500.000 pounds of egg products.

181,000,000 pounds of wool.

17,000,000 bushels of barley.

78,000,000 bushels of corn.

48,000,000 bushels of wheat.

434,000,000 pounds of barley malt.

319,000,000 pounds of coconut oil.

355,000,000 pounds of palm oil.

The following table shows in a very revealing manner just what has happened to agriculture under the present administration's tariff policy:

Foreign trade in agricultural products

Year ended June 30—	Exports	Competitive imports	Percent of im- ports to exports
1934	\$787, 000, 000	\$419, 000, 000	53
1935	669, 000, 000	498, 000, 000	74
1936	766, 000, 000	641, 000, 000	84
1937	733, 000, 000	868, 000, 000	118

From this table, it will be seen that the value of agricultural exports today is actually less than when the tradetreaty program went into effect in 1934, while the value of competitive farm imports is almost \$400,000,000 greater. On a quantity basis, the figures would show an even more adverse effect upon domestic agriculture. According to De-

partment of Commerce figures, the quantity index for exports of crude foodstuffs in the 9-month period ending September 30, 1937, stood at 30, compared with 97 in 1929. Imports of crude foodstuffs during 1937, however, stood at 107, compared with 128 in 1929. This means that while imports are coming in in almost the same volume as 1929, exports are only one-third the volume of that year. The same picture obtains with respect to manufactured foodstuffs. In fact it is more or less true of our whole foreign trade. Taking our foreign trade in its entirety, the Department of Commerce recently published figures showing that while on a quantity basis our exports were 76 percent of the 1929 level, our imports were 103 percent of the 1929 figure.

But of course I realize that all this is of little concern to the majority, else they would cancel these trade agreements that is injuring our farmers and causing so much unemployment in the industrial centers.

The SPEAKER. The time of the gentleman from Minnesota has expired.

#### EXTENSION OF REMARKS

Mr. RAYBURN. Mr. Speaker, I ask unanimous consent to revise and extend the remarks I made a few moments ago by inserting in the RECORD a statement issued by the Secretary of State on this very matter within the last 10 days.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. TABER. Mr. Speaker, I ask unanimous consent to extend my own remarks in the Record by including a radio address made by myself.

The SPEAKER. Without objection it is so ordered. There was no objection.

#### PERMISSION TO ADDRESS THE HOUSE

Mr. FISH. Mr. Speaker, I ask unanimous consent that on tomorrow, following the remarks of the gentleman from Pennsylvania [Mr. Ellenbogen], I may be permitted to address the House for 20 minutes.

The SPEAKER. Is there objection to the request of the gentleman from New York?

Mr. DINGELL. Reserving the right to object, Mr. Speaker, I would like to know what the gentleman is going to talk about?

Mr. FISH. On the same subject.

The SPEAKER. Is there objection?

There was no objection.

Mr. SABATH. Mr. Speaker, I ask unanimous consent that after the gentleman from New York [Mr. Fish] concludes his remarks on tomorrow, I may be permitted to address the House for 20 minutes.

The SPEAKER. Is there objection?

There was no objection.

Mr. LAMBERTSON. Mr. Speaker, I ask unanimous consent to address the House for 10 minutes this afternoon, following the other special orders.

The SPEAKER. Is there objection to the request of the gentleman from Kansas?

There was no objection.

### EXTENSION OF REMARKS

Mr. FISH. Mr. Speaker, I ask unanimous consent to extend my own remarks by including a radio speech.

The SPEAKER. Is there objection?

There was no objection.

Mr. JENKINS of Ohio. Mr. Speaker, I ask unanimous consent to extend my own remarks in the RECORD with reference to the modification of the taxation laws.

The SPEAKER. Is there objection?

There was no objection.

Mr. REES of Kansas. Mr. Speaker, I ask unanimous consent to extend my own remarks in the RECORD.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

Mrs. ROGERS of Massachusetts. Mr. Speaker, I ask unanimous consent to extend my own remarks with reference to reciprocal-trade agreements. America must choose whether she is going to protect her workers or go on with the reciprocal-trade agreements and lower the standards of living. Secretary Hull is a very fine and great man, thoroughly sincere in his belief in the reciprocal-trade agreements, but when our imports greatly exceed our exports, and a serious recession in business is at hand, the trade agreements do not seem to be working out as the administration expected. There is something radically wrong with economic conditions in our country today. It is undeniably true the workers of this country, with their high standards of living, cannot possibly compete with the labor in countries where conditions and standards are much lower. Following is a resolution which I am introducing today:

Whereas official announcement has been made by the Secretary of State that the Government of the United States contemplates the negotiation of a trade agreement with the United Kingdom of

the negotiation of a trade agreement with the United Kingdom of Great Britain, and the reopening of negotiations with the Dominion of Canada with a view to the enlargement of reciprocal-trade relations between the United States and Canada; and

Whereas the strong implication of the proposed trade agreement between the United States and the United Kingdom evidenced by London dispatches and by editorial comment in the United States is that incalculably more than trade balances are at stake, namely, the tightening of bonds of economic intercourse between the English-speaking peoples for the purpose of common defense of so-called democracies against alliances of Fascist states of Europe and the Orient in the present international situation; in other words, to employ negotiations for trade agreements as a subterfuge or to employ negotiations for trade agreements as a subterfuge or Trojan horse with which to inveigle the Republic of the United States to become entangled in foreign diplomacy and foreign alliances contrary to its historic policy and traditions and in disregard of the wise admonitions of Washington, and Jefferson, and a long

line of American statesmen; and
Whereas reciprocal-trade agreements already negotiated and in
effect have resulted in their operation in great damage to and in
some instances destruction of American industries and interallied business, have reduced employment and wages in the United States,

some instances destruction of American industries and interallied business, have reduced employment and wages in the United States, thereby curtailing the American market for the consumption of farm products, and at the same time opening the domestic markets to foreign agricultural products to serious and detrimental competition with the products of American farmers; and

Whereas negotiations are in progress to effect a reciprocal-trade agreement with Czechoslovakia which, if consummated, would still further depress, discourage, and destroy many lines of industry in the United States which could not successfully compete with foreign underpaid labor and lower living standards; and

Whereas for nearly 150 years during our existence as a constitutional Republic the protective-tariff policy which early statesmen called the American system was a bulwark to American industry, American farmers, and American wage earners against devastating foreign-made goods and agricultural products, conserved the American market, the greatest in the world, for American manufactures and American agriculture and American labor, under which system the Republic of the United States developed, progressed, and prospered, and established the highest rates of wages and the highest living standards of any nation on earth; and

Whereas the Reciprocal Trade Agreements Act is alleged to be, in effect, an instrument vastly increasing the powers of the Executive by transferring to him the power vested in the Congress by the Constitution to regulate foreign commerce; and

Whereas trade agreements negotiated and made effective under the authority of said act are alleged to be in effect, if not in name, none other than treaties with foreign countries and therefore in contravention of the Constitution of the United States in that they have not been submitted to nor ratified by the Senate of the United States as required in the case of treaties negotiated by the Executive: Therefore be it

Resolved, That a select committee of seven Members of the Hous

Resolved, That a select committee of seven Members of the House of Representatives (which body is charged with the constitutional duty of originating revenue bills) to be appointed by the Speaker, whose duty it shall be—

First. To inquire into the operation of all trade agreements entered into by the United States and foreign governments to

(a) Their effect upon the production of American manufactures and farm products.(b) Their effect upon employment of labor in industry and agri-

culture.

Their effect upon wage scales, wages in general, and the cost

(c) Their effect upon wage scales, wages in general, and the cost of living and standards of living.

Second. To inquire into all phases of the proposed reciprocal trade agreement between the United States and the United Kingdom of Great Britain—

(a) As to its probable effect upon imports and exports and specifically its effect upon articles of domestic manufacture, products of farmers, and upon wages of labor, skilled and unskilled.

(b) As to alleged implications that the underlying purpose of such trade agreement is for economic and political purposes as well

as for trade relations, to form a defensive alliance of so-called democracies against an alleged alliance between Fascist foreign

democracies against an alleged amance between Fascist foreign governments.

Third. To inquire specifically as to the probable effect of the proposed trade agreement with Czechoslovakia upon American industries, American agriculture, and wages of American labor.

Fourth. To inquire into the alleged unconstitutionality of the Reciprocal Trade Agreements Act on the ground that agreements made thereunder are in fact treaties and should therefore be submitted to and be ratified by the United States Senate before becoming effective.

Said committee shall have power to send for persons, books, and papers, to subpena witnesses, to administer oaths to witnesses, to meet at any time in the city of Washington or elsewhere, to em-ploy clerical and expert and stenographic assistance, and to incur necessary traveling and incidental expenses, including printing and

Said committee shall submit its findings and report to the House of Representatives at the earliest practicable date, together with such recommendations for legislation as it may deem necessary.

The SPEAKER. Is there objection to the request of the gentlewoman from Massachusetts?

There was no objection.

Mr. KNUTSON. Mr. Speaker, I ask unanimous consent to extend my own remarks in the RECORD.

The SPEAKER. Without objection, it is so ordered. There was no objection.

Mr. ELLENBOGEN. Mr. Speaker, I ask unanimous consent to extend my own remarks and include therein a radio address which I delivered on the subject of the Home Owners' Loan Corporation.

The SPEAKER. Is there objection? There was no objection.

SESSIONS OF THE COMMITTEE ON RIVERS AND HARBORS

Mr. MANSFIELD. Mr. Speaker, I ask unanimous consent that the Committee on Rivers and Harbors may be permitted to sit during the sessions of the House for the balance of this week.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

Mr. RICH. Mr. Speaker, reserving the right to object, if we are going to get an agricultural bill here this week, should we not have the members of that committee here? There are some important members on that committee who should be in the House.

The SPEAKER. Is there objection? There was no objection.

REFERENDUM ON PARTICIPATION IN FOREIGN WARS

The SPEAKER. Under the special order of the House the gentleman from Indiana [Mr. Ludlow] is recognized for 30 minutes.

Mr. LUDLOW. Mr. Speaker, I ask unanimous consent to revise and extend my remarks.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

Mr. LUDLOW. Mr. Speaker, I find I shall not be able to conclude my address today in the time allotted. I, therefore, ask unanimous consent to proceed for 20 additional minutes.

The SPEAKER. The gentleman from Indiana asks unanimous consent that in addition to the time heretofore allotted to him he may be allowed 20 additional minutes in which to address the House. Is there objection to the request?

There was no objection.

The SPEAKER. The gentleman from Indiana [Mr. Lup-Low] is recognized for 50 minutes.

Mr. LUDLOW. Mr. Speaker and ladies and gentlemen, I have asked for time to address you today in order that in a very earnest and sincere way, born of an intense feeling I have on the subject, I may plead with you, my colleagues, to sign discharge petition No. 11, now at the Speaker's desk, and thus bring before the House for debate and action my resolution (H. J. Res. 199), which proposes to amend the Constitution so that the American people shall have a referendum vote on participation in foreign wars.

The purpose and essence of the proposal which I bring to your thoughtful attention is that the people of our country may have an opportunity to express themselves before our

boys are sent away into foreign lands to die like sheep in a shambles in the settlement of quarrels of alien origin. On account of my exacting duties as a member of the Appropriations Committee and the hurry and press of the public business I have come to you without a carefully prepared address and without any discourse very clearly delineated in my mind, but the subject upon which I shall speak is so intimately related with the highest and most sacred of all human values that I do not really believe I shall need any linguistic embellishments or dramatic arts to enable my mind to meet your minds and my heart to touch your hearts. I shall speak on a subject that is uppermost, I think, in all of our minds, and that is war and how to keep out of it.

I have been advocating a referendum on foreign wars so long and so insistently, and have made so many speeches on it, and have buttonholed so many Members in regard to it that sometimes I wonder whether I am beginning to wear out my welcome and trespass on your patience. I do not mean to do so. No one is prouder of his membership in this House of Representatives than I am. It is a high honor to be a Representative in the Congress of the United States, where I am now serving my fifth term through the partiality of the voters of a great district of this Union. I regard my five terms in this body as the capsheaf of my efforts to be of service to humanity. I respect the views of every Member, however divergent from my own those views may be. I have the most affectionate esteem for every Member of this body, and if in my activities in behalf of what I believe to be a great cause I have offended any colleague, I humbly beg his pardon here and now.

Mr. FISH. Mr. Speaker, will the gentleman yield? Mr. LUDLOW. I yield.

Mr. FISH. Mr. Speaker, the gentleman from Indiana has rendered great service to the cause of peace in this country. He has led this fight almost single-handed—this fight to give the American people the right to determine whether they want to go to war or not. It is utterly a nonpartisan issue—a great American issue—and I hope that Members from both sides will sign this petition. The reason I rose today, however, is simply because the gentleman has done this work for these years; he has led this fight; and he deserves credit. But so the record may be made clear, a number of Senators, understanding the appeal and the popularity with which the gentleman from Indiana has surrounded this issue after his long fight, have now introduced similar resolutions. I want the credit to go where it belongs-to the gentleman from Indiana-for his gallant and heroic work. [Applause.]

Mr. LUDLOW. I thank the gentleman from New York from the bottom of my heart.

### PIONEERING A LONG TIME

Sometimes I feel like an old pioneer in the enterprise of trying to secure for the common people of this country—the people who have to do the dying and suffering when war comes—the right to have something to say as to whether the United States shall enter foreign wars. As the distinguished gentleman from New York says, I have been working at it a long time. It will soon be 3 years since I introduced in this body my initial resolution on the subject. At first it was hard sledding. In a one-line editorial an eastern newspaper commented caustically:

Congressman Luplow is waging a one-man fight on war.

And it did seem that way. Since then the sentiment for the proposal has grown by leaps and bounds, and lately it has found reflection in a striking way in another branch where, within 1 week, four distinguished Members have introduced substantially the same proposal that I have been advocating these 3 years, and two of them have done me the honor to adopt part of the language of my resolution. This singular manifestation in another branch shows what the country is thinking and how the volume of opinion is growing, and I am delighted by it. It is a barometer unmistakably registering progress for this popular movement.

I wish that every citizen of the United States might appropriate my proposal and adopt it as his own. It is gratifying to me to know that the cause is making such splendid headway. But let me submit to you, my colleagues of the House, this suggestion: This is a proposition in the interest of the masses of the people. The House of Representatives is the body which traditionally and historically stands closest to the people, the body that feels the heartthrobs of the Nation, the body that is inseparably intertwined with "government of the people, by the people, and for the people." In my opinion, it is becoming evident that if we do not soon adopt this resolution at this end of the Capitol the other branch will beat us to it, and it seems to me that it would be most appropriate and altogether to our credit if the first action toward sending this important constitutional amendment out to the States for ratification should be taken by the body of the people.

So I ask you if you will not support the pioneer in your own ranks by helping him to get this proposal up before the House for debate and a vote.

The American Institute of Public Opinion recently conducted a poll on my resolution and found 73 percent of the people as a whole and 79 percent of the women as a class to be in favor of it. Certainly this overwhelming sentiment should find a sympathetic awakening in Congress.

Mr. KNUTSON. Mr. Speaker, will the gentleman yield? Mr. LUDLOW. I yield.

Mr. KNUTSON. As the gentleman knows, I am very much interested in his resolution and have tried to cooperate with him to the best of my ability. Why should it not be possible to get this resolution reported out from the committee that has it in charge?

Mr. LUDLOW. I am afraid the gentleman will have to address his inquiry to the committee. I do not know.

Mr. KNUTSON. I consider this one of the most important pieces of legislation that has been introduced in this or in any preceding Congress in my time.

Mr. LUDLOW. I thank the gentleman. There is no better friend of the cause of peace in the United States than the gentleman from Minnesota.

### I DO NOT STAND ALONE

When I stand here today presenting this plea to you I do not stand alone. Oh, no. I stand at the head of a vast invisible army whose hosts are as far-reaching as the continent itself. I present the plea of innumerable legions who cannot be here in person. I present the plea of millions of the fathers, the mothers, the wives, and the sweethearts in the teeming cities and away back in the remotest settlements. I bring to you the plea of the American War Mothers, whose sons sleep in France, whose memorial I hold in my hand. They ask you to pass this resolution so that—and I quote their language—

The women of the future may never know the anguish that has been theirs.

I present to you the plea of a million members of organized labor, the 21 railroad brotherhoods, who say in their memorial—and I quote their language:

This legislation is racing against the danger of war and there is no time to spare.

I present to you the plea of the Woman's Christian Temperance Union in its national organization and in all of its branches in all of the 48 States.

I present to you the plea of the Church of the Disciples of Christ in America, with its thousands of churches and its millions of communicants, thrice reiterated in as many successive years in national convention assembled. I present the endorsement of Archbishops Curley, Droessarts, and McNicholas and many bishops of the Catholic Church; of great synods of the Lutheran Church; of a vast number of leaders and organizations of the Jewish people. I present the endorsement of Frank B. Kellogg, coauthor of the Pact of Paris, and the following eminent persons, who not only are heart and soul for my resolution but who have accepted

service as directors of the Committee on the War Referendum, an organization that has been created to promote it:

COMMITTEE FOR THE WAR REFERENDEM

Alanson B. Houghton, former Ambassador to Germany and England; Mrs. Howard C. Boone, president of American War Mothers; Maj. Gen. William C. Rivers; Edward Keating, editor of Labor; William Allen White, editor and publisher; A. F. Whitney, president of the Brotherhood of Railroad Trainmen; Dr. John A. Ryan, National Catholic Welfare Council; Gen. James E. Van Zandt, past national commander of the Veterans of Foreign Wars; Gen. Smedley Butler, former Commandant of the Marine Corps; William F. Bigelow, editor of Good Housekeeping Magazine; William Lowe Bryan, former president of Indiana University; Frank Graham, president of North Carolina University; Ole Hanson, manager of the Co-Operative Creamery Association: Frank E. Hering, editor of the Eagle Magazine and past grand worthy president of the Fraternal Order of Eagles; Charles P. Howard, president of the International Typographical Union; Rabbi Edward L. Israel, of Baltimore; Edgar Dewitt Jones, president of the Federal Council of Churches; Roy McKaig, legislative representative of Idaho State Grange; Joy Elmer Morgan, National Educational Association; Paul B. Kern, Methodist Episcopal bishop of North Carolina; Homer P. Rainey, director of the American Youth Commission; Mrs. Elizabeth Stanley, past national president of the Woman's Christian Temperance Union; John Steves, president of Steves Sash & Door Co., Texas; Mrs. Harvey W. Wiley, Washington Federation of Women's Clubs; O. O. Wolf, president of the Kansas Farm Bureau; and William A. Julian, Treasurer of the United States.

I present also the plea of 75 presidents of universities and colleges, who speak impressively for the higher thought and for the youth of the Nation, and in contrast thereto I present the pleas of thousands of uneducated but worthy people, who confess in their letters to me that they have never before addressed a Member of Congress; who write falteringly, punctuate badly, and spell lamely, but who manage to make themselves articulate in the great yearning that fills their hearts that our American boys shall never again be plunged

into the hell of a foreign conflict.

Mr. ASHBROOK. Mr. Speaker, will the gentleman yield?

Mr. LUDLOW. Gladly.

Mr. ASHBROOK. May I not ask my good friend, who is one of the pioneer sponsors of this peace movement, whether or not he has received protests against this peace resolution: and if so, upon what grounds?

Mr. LUDLOW. I may say to the gentleman from Ohio that I have never in my life received what I would call a protest. I have received a very few letters occasionally objecting to certain features of my proposal, but such letters would not run over one letter in a hundred, and then it is generally from someone who raises some hypothetical question on some point in regard to its application. I believe sincerely, however, that this resolution reflects almost the unanimous sentiment of the people of this country.

Mr. ASHBROOK. So far as I know, the people whom I have contacted in my district are 100 percent in favor of this resolution. I assure the gentleman, as he well knows, that I am heartily in favor of it and will gladly continue to cooperate with him.

Mr. LUDLOW. I thank the gentleman from Ohio. He has been one of the most valuable supporters of this proposition from the very beginning.

Mr. BIGELOW. Mr. Speaker, will the gentleman yield?

Mr. LUDLOW. I yield.

Mr. BIGELOW. How many signatures to this petition does the gentleman lack to discharge the committee from further consideration?

Mr. LUDLOW. At this moment there are 189 signatures on the petition.

Mr. BIGELOW. Within about 3 minutes' time two Members of this House, young, vigorous, progressive Democrats, sat down beside me, and each of them said that they had not signed the petition. I am convinced from this that there must be a great many people who still have not had their attention called to it and who would sign the petition.

Mr. LUDLOW. I thank the gentleman for his encourage-

Mr. ROBSION of Kentucky. Mr. Speaker, will the gentleman yield for a brief observation?

Mr. LUDLOW. I yield.

Mr. ROBSION of Kentucky. I have signed the gentleman's petition, and I have been in full accord with the principles set forth in the gentleman's resolution. I am not a pacifist, and history from 1775 to the present time shows that I do not represent a district of pacifists. The people of my district have taken a definite part in all the wars of this country; but during the adjournment of Congress I brought this to the attention of a great many groups in my congressional district, and I say, as did the gentleman from Ohio [Mr. ASHBROOK], that practically 100 percent of the people in my congressional district are in favor of this resolution. As has been so well said, the people, the mothers and fathers, furnish the boys and girls to fight the wars, as well as the money.

The biggest issue that can come before our country at this time is the question of a foreign war. If we are to have a referendum on anything it seems to me this is the most important issue. I am heartily in favor of the gentleman's

Mr. LUDLOW. I thank the gentleman from Kentucky. and appreciate very much his very valuable cooperation.

Mr. KVALE. Mr. Speaker, will the gentleman yield?

Mr. LUDLOW. I yield.

Mr. KVALE. In conjunction with the question raised by the gentleman from Ohio as to whether there was any opposition to this resolution, I merely wanted to ask the speaker, my good friend from Indiana, whether or not the opposition comes largely from the vested interests who control the munitions of war and the raw materials that enter into the manufacture of munitions?

Mr. LUDLOW. I cannot answer directly. The fact is I have heard of almost no opposition coming from any quarter. I have been agreeably surprised by the apparent unanimity of sentiment with which the proposal is being received.

The plea I am making is one of the best-documented pleas ever presented to this or any other parliamentary body. It is documented by innumerable letters and telegrams that have been written, and resolutions that have been adopted by individuals and groups, that fill to bursting the file cases in my office. It is documented by letters written on the fancy and scented stationery of intellectuals who are genuinely alarmed by the war menace that hangs like a pall over the Nation, and it is documented by other letters that are fingerprinted by the worn and calloused hands of working men and women.

# DEMAND IS RINGING THROUGH NORTH AMERICA

A demand for the right to vote on sending our boys into foreign slaughter pens is ringing through every State in North America, and it has reached the throne of power in Washington, and we who sit on the throne of power are asked in the name of humanity to amend the Constitution so that those who have to do the dying and the suffering and to bear the unspeakable burdens and griefs of war shall have something to say about entering foreign wars. The people have lost confidence in the ability of diplomats to keep us out of foreign wars. What little confidence they had left disappeared the other day when they read how the United States was beguiled by European intrigues during the World War and how the World War allies were secretly pledged in advance to a division of territorial spoils—a pledge that has been kept in the dark for 20 years, with good old honest Uncle Sam not having the least suspicion of it. The people are saying today:

Every time a Government official issues a statement on inter-national relations and every time a diplomat makes a false move the cold chills chase up and down our spines, for we do not know how soon the time may unhappily come when America will be

plunged into another horrible war. Give us the power to vote on war and we will take care of this question of war, and we will take care of it right by staying out of foreign wars. We are tired of a system whereby this most vital of all questions is determined by somebody away up in the stratosphere. We want to determine it ourselves. Anyway, we are the ones who have to do the dying and the suffering. Why shouldn't we have something to say about it? We will defend our country from attack or invasion with the last drop of our blood, but when it comes to entering a foreign war we demand a voice and a vote.

Mr. KELLER. If the gentleman from Indiana will be so kind, will he not read that last sentence again?

Mr. LUDLOW. I am quoting what I interpret the popular thought to be.

Mr. KELLER. I understand, but it is so well put I would like to hear it again.

Mr. LUDLOW. The last sentence was an allegorical interpretation of what I believe to be the people's thoughts:

We will defend our country from attack or invasion with the last drop of our blood, but when it comes to entering a foreign war we demand a voice and a vote.

What are we going to say to those who plead for a vote on participation in foreign wars? Are we going to say, "It is none of your business"?

Are we going to say to the anxious fathers and mothers, "The blood of your son is needed to redden the soil of Spain or China or Japan"?

Are we going to say to the fine young man who is the potential cannon fodder, "It is none of your affair whether you are to be sent abroad to be blown to bits by bombs rained from the air; to be strangled by lethal gases, or to die in spasms from disease germs hellishly spawned in foreign laboratories"?

During the last month I have visited a number of universities in Ohio and Indiana and have seen many fine young men whose faces bear the imprint of character and high resolve, who desire under all circumstances to do their duty as God gives them light to see their duty, and I think I know what they are thinking. I think they are thinking that they love their country and that they would willingly give up their lives, if necessary, to defend it from attack or invasion by a foreign foe, but they are resenting, just as I resent, the idea that if a world war comes they will be conscripted and sent away to die in foreign slaughter pens.

I insist that it is the business of our fathers and mothers and our young men whether the flower of our manhood is to be sent into foreign countries to be maimed and slaughtered, and I contend that that question, whenever it arises, should be submitted to a vote of all of the citizens, the vote of every citizen having equal weight with the vote of every other citizen. The demand for a vote on foreign war will not be satisfied without action. If we disregard it now, that will not stop it. It will ring in our ears more and more, and it will be heard in the next congressional elections, and it will keep on being heard, because it is the voice of humanity crying in the wilderness.

HOW CAN THOSE WHO SPEAK THE COMMON TONGUE OPPOSE A REFERENDUM?

In this country are many persons, perhaps a vast majority, including Members of this House, who sprang, as I sprang, from the common people; who have known, as I have known, the poverty and distress of a lowly lot. I cannot honestly see how any of those whose origin gives them the right and license to speak for the masses of the people can persuade themselves that those who have to do the dying and the suffering should have nothing to say about plunging this country into foreign wars. May angels and ministers of grace defend them as they sound the depths of technicalities and search the byways of legalistic sophistry to try to prove that the common people should not exercise a right which there is every reason to believe God intended they should have and exercise. I thank God I was born a commoner, and I pledge myself to remain true to the common people and to do all I can with my very limited capacity and imperfect vision to keep them out of foreign entanglements.

WHAT IS UNSOUND ABOUT IT?

What is there that is unsound about this proposal that the people shall have a right to vote on declarations of war, except in the case of attack and invasion?

How can anyone who is steeped in the genius and spirit of our free American institutions say that it is unsound? It is as sound as Magna Carta is sound. It is as sound as the Bill of Rights is sound. It is as sound as "government of the people, by the people, and for the people" is sound. It is in entire harmony with the philosophy of the Bill of Rights, and if adopted it would round out and complete that immortal chart of freedom.

In America today we have a dual autocratic and popular control, where popular sovereignty stops at the water's edge. Our citizens can elect their constables and their dog catchers; they can express themselves by referendum on the location of a pesthouse or a waterworks, but they do not have one word to say on the greatest of all questions—a declaration of war, that involves the happiness of their homes and the life or death of their children, husbands, and sweethearts. In its foreign relations our Government is a pure autocracy. This situation hearkens back to the Dark Ages, the ages of tyranny and oppression. It recalls the black, heart-breaking centuries when men, with unspeakable suffering, yearned for but never reached the goal of liberty, and now the advancement in the means of communication has made it possible in this twentieth century for us to complete the free processes of government, so nobly begun in the Bill of Rights, by giving to all of our people an equal right to vote on declarations of war, the vote of every citizen to have equal weight with the vote of every other citizen.

### TIME TO COMPLETE THE BILL OF RIGHTS

When we think of the Bill of Rights we think of the long centuries of human travail when men toiled slowly and painfully upward toward the light of freedom. We think of Runnymede and the great charter wrested by the barons from King John which paved the way for our Bill of Rights, and which has been described as the finest fruit of 60 centuries of human struggle and evolution, and we see in our own great charter, the American Bill of Rights, a code of liberty which underlies in its principles and its exemplary influence all that is most successful in the enfranchisement of peoples. Let us review some of its guaranties:

First. Freedom of religious worship.

Second. Freedom of speech. Third. Freedom of the press.

Fourth. Freedom to peaceably assemble and petition the Government for redress of grievances.

Fifth. Freedom from unreasonable searches and seizures. Sixth. Freedom from cruel and unusual punishments.

Seventh. Trial by jury.

It is now proposed by my resolution to add one more guaranty, as follows:

No participation in foreign wars except with the consent of the people.

What could be more in harmony with the spirit and the purpose of the Bill of Rights than that the people should have a right to say whether they shall sacrifice their sons and pour out their treasure in foreign wars? It is now time to complete the Bill of Rights by adding this new amendment to the Constitution.

ONCE TENABLE ARGUMENT NOW NULL AND VOID

The only tenable argument ever made against the plan for a referendum on foreign war is the time required to take a referendum which it is claimed might give an enemy nation the advantage.

That was a valid argument in 1837 but not in 1937.

In the early days of the Republic the time objection was, indeed, an insuperable obstacle. Had it not been for imperfection in the means of communication at that early time I believe that Jefferson and his compatriots would have included a provision for a referendum on war in their cherished Bill of Rights. The railroad, the telegraph, the telephone, the radio, the airplane were then in the bosom of the

unknown future. Even the pony express was as yet undreamed of. Letters mailed on the eastern seaboard were 6 months arriving at the uttermost frontiers, if, indeed, they ever reached there at all. Now it is all different. The fast train roars its way across the continent in 100 hours, the airplane in 24. The President, sitting before the microphone in Washington, talks to the entire Nation.

Thus the only real objection ever made against a war referendum, namely, that it would consume too much time, has been completely nullified by modern perfection in the means of communication. On this subject Admiral McGowan, of South Carolina, a great officer of the World War, gave expert testimony.

There seems-

He said-

to be a very general misapprehension as to the time required to hold a referendum. The United States has long since graduated out of the stage-coach and pony-express class, and there is no reason whatever why in this day of railroads and airplanes and telegraph and telephone and radio we could not refer the question of war or peace to the people of the country and have their answer back within a week—indeed, within 48 hours, if absolutely necessary.

This is the testimony of a great officer who was Paymaster General of the United States Navy and head of the Bureau of Supplies in the world's greatest war, and who had a very practical vision of war problems. Since he testified all of the agencies of transmitting the written and spoken word have been further developed so as to quicken communication, and, in my opinion, there is no longer the slightest reason to raise the time factor as an objection to a war referendum.

And on this point I desire to call another expert witness—Maj. Gen. William C. Rivers, a great Army officer, who had the unusual fortune to win the coveted star of a general three times, on whom France awarded the Croix de Guerre and our Government the Distinguished Service Medal for stemming the tide of the enemy's advance during the second Battle of the Marne. Writing to me a few days ago, he says:

First, let me say that I feel strongly that we must adopt and try out some new plan; that we must not adhere to our old plan of drifting into a war. The main objections to the Ludlow plan refer to fears that while we delay to vote a foreign power could attack us. Nothing is perfect; but I see no merit in this contention. The two oceans and the absence of powerful and aggressive neighbors give us ample protection againt sudden attack. Again, we are told by some that it is unwise to place experimental proposals into our Constitution. No more vital feature than the Ludlow amendment could be added to the Constitution, where it could not be repealed by the Congress in a moment of emotional stress.

And he adds:

The voters as a whole can never be subjected to such concentrated propaganda as may fall on the fewer than 500 men in Congress.

It seems to me that the testimony of these military experts disposes of the argument that there would not be time to take a referendum on a proposal to enter a foreign war. Ordinarily there would be time for many referendums. It is assumed that if the amendment which I propose to give the people a right to vote on declarations of war is written into the Constitution the General Staff and the War College will set up machinery whereby such referendums may be taken expeditiously and on the shortest notice when ordered.

### DANGER OF A DICTATORSHIP

There are those in this country, perhaps in this Congress, who believe that the power of the President should not be governed by the Constitution of the United States. They believe that it should be governed by the constitutions of other nations. If Germany gives Hitler the power to plunge that nation into war overnight, and Italy gives Mussolini that power, it follows, they claim, that our President should have similar powers. With this doctrine of dictatorship resulting from foreign precedent I want to have nothing to do.

I do not agree that because other countries have dictators who can make war easily and expeditiously, America should also have a dictator. America is not Germany and it is not Italy; it is not Spain and it is not Russia or Japan.

America is the greatest free country in the world, and let us fervently hope that it will remain forever free. And right here I would like to point out the real danger that unless we decentralize the war power and give it to the people, a tyrant may some time appear in the White House and grab that power. We cannot overlook the fact that governments all around the world have been going centripetal at an amazing rate.

Since the World War—the war which we hoped was to save democracy—19 democracies have died and the hopes of the people have died with them. Our own country has not escaped the centripetal trend.

By actual count at the last session of Congress 270 bills, prepared and predigested in the executive departments, were sent to Congress by heads of bureaus and other executive agencies. and most of these bills were passed and became laws.

In the Seventy-third and Seventy-fourth Congresses 77 major laws were enacted. Of these, 18 originated in Congress and 59 originated in the executive departments. I mention this trend of executive influence over Congress not in criticism, because executive leadership was necessary to bring our country out of the darkest night of economic distress and despair it ever has known, but if the man who happens at any given time to be President has so much influence over Congress in an economic emergency, less serious than war, to what length might not a tyrannical President go in usurping the war power and plunging America into war to satisfy his own whims? If we are to stabilize peace in America and do our part toward stabilizing the peace of the world we should decentralize the war power and vest it with the people themselves. That is where it ought to be. That is where sovereignty abides, and we should do this before it is everlastingly too late, before some tyrant makes his appearance in the White House. No stancher friend of peace ever occupied the Executive Office than President Roosevelt. but, after all, the period of one President's service is but a second in the life of a nation, and I shudder to think what might happen to our beloved country some time in the future if a tyrant should appear in the White House, grab the war power, and run amuck.

# AT THE TOMB OF NAPOLEON

In the solemn history of the world we look at two colossal figures who typify the two extremes—Napoleon the tyrant and Jefferson the humanitarian. God save America from another Napoleon!

A few years ago I stood at the palatial tomb of Napoleon, on the banks of the Seine he said he loved so well, and looked over the balustrade at the sarcophagus where rest the remains of that incarnation of blood and murder, surrounded in magnificent panoply by the battle flags he had captured in his amazing career of conquest and of violence. I could not become enthused, even amid these surroundings of imperial majesty, because I had a sickening sense of the widows and orphans he had made and how he had brought sorrow and grief and desolation into nearly every household in Europe.

As I paused there, surrounded by vivid reminders of the bloody Napoleonic campaigns, I resolved that when I returned to America I would visit another shrine where I knew my emotions would be different. I would visit the tomb of Thomas Jefferson, who wrote into the great Declaration the precious doctrine that "all men are created equal."

And later, when I stood on that Virginia mountainside, while the rays of early morning gilded the shaft where rest the remains of the greatest humanitarian since Jesus of Nazareth, I was impressed as I never had been before.

"Here," I thought, "lies a man whose passion it was to save and to serve, and not, like Napoleon's, to destroy humanity. Here lies the great champion and defender of human rights."

And I was thrilled beyond my feeble powers of language to describe by the inscription on his tombstone which he himself wrote and commanded to be be placed there.

was buried Thomas Jefferson, the author of the Declaration of American Independence, of the statute of Virginia for religious freedom, and father of the University of Virginia.

That inscription, it seemed to me, is more significant for what it does not say than for what it says.

There is not one word in it to indicate that he had been a Member of the Congress of the United States, Minister to France, Secretary of State of the United States, and that he had held the highest office in the gift of his countrymen—the Presidency of the United States. He wanted to be remembered not for the positions of distinction he had held but for the service he had rendered to humanity. That was Thomas Jefferson, one of the most incomparably grand figures in the world's history, and I believe that if the man who hurled into the teeth of tyrants the defiant doctrine that all men are created equal and that other man of colossal height who said that God must love the common people because He made so many of them-Jefferson and Lincoln-were living today, they would be supporters of my proposed constitutional peace amendment which makes all citizens equal in the greatest and most tragic of all decisions—the decision that registers a nation's verdict for war or for peace. [Applause.]

Mr. KELLER. Will the gentleman yield? Mr. LUDLOW. I yield to the gentleman from Illinois. Mr. KELLER. I would like to know what position Jefferson took in relation to the Revolutionary War.

Mr. LUDLOW. I do not know just what the gentleman

Mr. KELLER. Was he for it or against it? Mr. LUDLOW. Suppose the gentleman tells us himself. He is a better scholar than I am.

Mr. KELLER. The gentleman knows. I would also like to ask what position Jefferson took in the War of 1812. The gentleman cited him as a prince of peace. Of course, I have signed the gentleman's petition, because I would like to hear an honest discussion of the matter, but I am not getting it

Mr. LUDLOW. My time is expiring and I suggest the gentleman discuss that question in his own time. It would lead me farther afield than I care to go now.

Mr. KELLER. Oh, no; not in my own time. I am not proposing the proposition. The gentleman ought to defend it.

Mr. LUDLOW. Something was said a while ago about this not being a pacifist proposition. The gentleman who made that statement was correct.

### NOT A PACIFIST PROPOSITION

If anyone has jumped to the conclusion that the constitutional amendment I am advocating is a pacifist proposition, as the word "pacifist" is generally understood, I want to correct that impression. This proposition has nothing whatever to do with the size of our national defense. It in no way, sense, or degree impairs our national defense, since under the very terms of the resolution there would be no referendum in the case of attack or invasion.

A declaration of war is no idle and inconsequential thing. It signs the death warrant of our fine young manhood. Surely it is a matter of sufficient importance to entrust to the decision of all of our people, with women having equal voting rights with men, as is proposed in my resolution.

WOMEN NOW HAVE NO RIGHTS ON DECLARATION OF WAR

And why should not women have the right to vote on a declaration of war? War is the supreme calamity affecting family ties. It breaks up happy homes and tears heartstrings asunder. Women go down into the valley of the shadow of death to bring our boys into the world. Why should not they have something to say as to whether their own flesh and blood shall be hurled into the hell of a foreign conflict?

Mr. KITCHENS. Will the gentleman yield?

Mr. LUDLOW. I yield to the gentleman from Arkansas.

Mr. KITCHENS. The question to be voted on under this resolution would be, Shall the United States declare war on a foreign country? Is it not a fact that the United States has never declared war on any country, there just simply being a state of war existing?

Mr. LUDLOW. I think that is a legalistic technicality there that is really not important. The declaration that a state of

war exists is tantamount to a declaration of war.

Mr. CASE of South Dakota. Will the gentleman yield? Mr. LUDLOW. I yield to the gentleman from South Dakota.

Mr. CASE of South Dakota. The gentleman raises the question as to whether or not women should be entitled to vote. Would he not also be willing to extend that further and include citizens over the age of 18? Boys over 18 would be drafted.

Mr. LUDLOW. I think it should rightly be so extended. I would favor the gentleman's suggestion. Certainly anyone who is eligible for draft, or in the draft ages, should have a right to vote on the question of war. That is simple justice. But this resolution, if it is brought before the House, will be wide open for amendment in the Committee of the Whole, and the suggestion that my friend makes can be offered in the form of an amendment.

In every war, terrible as is the fate that awaits many men, the women are the worst sufferers. Of the 531 Members of Congress, only 7 at this time are women, so you can see how pathetically negligible and impotent is the opportunity afforded to give expression to whatever may be women's viewpoint on any particular war proposal.

It would have to be a mighty good cause that would drag America into war under this constitutional provision. I sincerely believe that it would keep America out of all foreign wars, and, indeed out of all wars, unless the occasion should arise for a righteous war of defense, which is very improbable.

We are not a nation of aggressors, and the chances that some foreign power will come to our shores to attack us are about as remote as the probability that the moon will suddenly jump from its orbit and land on top of us.

### THE HORRIFYING WORLD PICTURE

If we take a look at the horrifying world picture, I am sure we will all be impressed with the necessity of doing something to keep America out of foreign entanglements. Both the Occident and the Orient are aflame with war, and there is danger that we may be dragged in at any time. And if another world war comes, what a war it will be! It will not be like any other war that has ever gone before. It will not be a contest between visible armies made memorable by the conduct of brave and heroic men on the battle lines but it will be a scientific slaughter-fest. Science will step in and direct the implements of destruction for a reign of carnage and a harvest of death that will make all previous wars pale into insignificance. Whatever that something is that must be done to keep us out must be done now, when we are at peace and before the war spirit is aroused. Whatever that something is that must be done to keep us out of war it must be in the form of a constitutional amendment. A mere statute will never suffice, because the forces that would sweep the Nation into war could and would repeal in a jiffy any statute that conflicts with their purpose. Only a constitutional amendment has the permanency and stability to keep us free from the foreign entanglements that are threatening to be woven all around us.

Three times since I first introduced my proposal for a referendum on war the American Institute of Public Opinion has conducted polls on it and has always found the people to be overwhelmingly for it. Summarizing its findings, the Institute announced on October 10:

On many public questions Institute polls show sharp trends of opinion. But public opinion on the war referendum idea remains unusually constant. When the Institute asked voters the identical

referendum question in November 1935—that was 10 months after I first introduced my resolution—75 percent of the voters reached favored it. In September 1936, sentiment in the poll was 71 per-In today's Today's vote showed 73 percent in favor. poll, women voters are more sharply in favor of the war referendum than men. A breakdown of the vote by sexes shows that while men favor the proposal by a vote of 69 to 31 women favor it by 79 to 21.

In Congress, however, the Institute continues, this new and unorthodox idea has shown increasing signs of strength over the same period. In the Seventy-fourth Congress, which sat in 1935 and 1936, a referendum amendment by Representative Luplow obtained just 72 signatures from Members of the House. To bring a bill before the House for action 218 signatures are required, and the Ludlow measure fell far short of the required number. In the last session of Congress, however, 185 signatures were obtained sponsors are optimistic of finding 33 more names in the coming session.

President Woodrow Wilson well said that he had heard of "governments making war on governments" but that in all of the range of his observation he never knew of "peoples making war on peoples", and our present Chief Executive, Franklin D. Roosevelt, uttered a sentiment of cheer and inspiration to the human race all around the world when he said that "war by governments must give way to peace by peoples." If in every country on the globe the war power could be democratized and vested with the people, war probably would almost vanish from the earth, for the peopleand by that I mean the people of every land-do not want war. They are sick of its heartaches, of its grief and suffering; of the pain it puts in the hearts of mothers. America, our great, beloved country, has always been noted for its primacy as an exponent of righteousness and high ideals, and I ask to what greater cause could we dedicate ourselves than to assume the leadership in trying by precept and example to emancipate the human race from the curse of

While no one realizes more keenly than I do the danger of our involvement in foreign war, I do not subscribe for 1 minute to the defeatest theory that if another world war breaks out America cannot escape it. I believe that is a wholly erroneous theory. America will not enter a foreign war if the people have a chance to vote on the proposition. If the counsel of calmness and reason prevails and the people are allowed to settle the question in the privacy of the ballot booths we will keep out of war. I think I know something about American sentiment on war as a result of my years of hard struggle to promote my war referendum amendment. I say that as a nation we do not want to enter foreign wars and we will not do so if the people have a chance to decide the question.

I have presented to you the broad outlines of my peace proposal and what it is hoped to accomplish by it. I believe it would banish from the minds of our people most of the fears of involvement in foreign wars and that it would go very far toward stabilizing the peace and security of America: and, furthermore, I believe that it is fundamentally right.

Mr. Speaker, how much time have I remaining?

The SPEAKER pro tempore. The gentleman has 1 minute

Mr. KELLER. Mr. Speaker, I ask unanimous consent that the gentleman may have 10 additional minutes. I would like to ask him a question.

Mr. LUDLOW. I thank my friend for his courtesy, but I do not care for 10 additional minutes. I have had my say and there are other gentlemen waiting here. It would not be fair to them.

Mr. KELLER. They will be glad to wait, I know. Mr. LUDLOW. I have said practically all I care to say now and it would not be fair to a number of other speakers who are to come after me for me to consume more time.

Mr. KELLER. Why not answer questions?

I THROW THE TORCH TO YOU

Mr. LUDLOW. I believe that the real question here is whether we Members of Congress are willing to shut the people out from that one great awful decision which, once made, cancels the power of Congress and of the people for years to come. Once the decision to declare war has been made by Congress, it follows that civil liberties are suspended, the press can be controlled, men can be sent to danger and death, billions must be spent, billions must be loaned to foreign nations, foreign exchange must be supported with American money. After that one great decision Congress becomes by it a rubber stamp. The Nation becomes an armed camp. It seems to me, my colleagues, that we should be willing to allow our constituents to participate in this major decision.

Speaking for myself, I am not going to say that my constituents are not intelligent and well-informed enough to vote on a question of sending our boys away to be killed in foreign wars. I know that they are and I believe that the American concept of free government will remain imperfect and incomplete until the people are given a right to vote on a question that affects so intimately their homes, their families, and their well-being.

I have had my say, and I throw the torch to you. Let us sign discharge petition No. 11 up to the requisite number of 218, which will bring it before the House as a basis for what will undoubtedly be one of the most notable peace discussions of modern times, with wide latitude of debate and unlimited privilege of offering amendments. Then let us pass the resolution in its perfected form and trust that it will be ratified by the States, so that there may be added another pillar to the great temple of liberty. [Applause.]

Mr. KELLER. Mr. Speaker, I make the point of order there is not a quorum present.

The SPEAKER. Evidently there is not a quorum present. Mr. SHANLEY. Mr. Speaker, I move a call of the House. A call of the House was ordered.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 51

	1,770		
Aleshire	Disney	Hill, Ala.	Phillips
Allen, Del.	Douglas	Holmes	Ramspeck
Barden	Drewry, Va.	Jarrett	Randolph
Barton	Driver	Johnson, Minn.	Reed, Ill.
Beam	Edmiston	Kennedy, Md.	Robertson
Beiter	Eicher	Keogh	Robinson, Utal
Bland	Evans	Lamneck	Rogers, Okla.
Bloom	Farley	Lea	Ryan
Boylan, N. Y.	Fitzpatrick	Lesinski	Sirovich
Buckley, N. Y.	Flannagan	McGroarty	Smith, Maine
Burch	Ford, Calif.	McLean	Somers, N. Y.
Byrne	Fulmer	Mahon, S. C.	Spence
Cannon, Wis.	Gavagan	Meeks	Sullivan
Cartwright	Gifford	Mills	Sumners, Tex.
Celler	Goldsborough	Murdock, Ariz.	Treadway
Chandler	Greenwood	Norton	Wallgren
Citron	Greever	O'Connell, R. I.	Wene
Clark, N. C.	Gregory	O'Connor, Mont.	Whelchel
Cole, Md.	Haines	O'Connor, N. Y.	White, Idaho
Costello	Hamilton	O'Leary	Whittington
Crosser	Hancock, N. C.	O'Neal, Ky.	Wood
Cullen	Harlan	Owen	Woodrum
Cummings	Harrington	Parsons	Zimmerman
DeRouen	Healey	Pettengill	
Dickstein	Hildebrandt	Pfeifer	

The SPEAKER. Three hundred and thirty-two Members have answered to their names, a quorum.

On motion of Mr. RAYBURN, further proceedings under the call were dispensed with.

### COMMITTEE ON AGRICULTURE

Mr. JONES. Mr. Speaker, I ask unanimous consent that the Committee on Agriculture may be permitted to sit during the sessions of the House during the remainder of the week.

Mr. GILCHRIST. Reserving the right to object, Mr. Speaker, does this request include the subcommittees?

Mr. JONES. I will include the subcommittees in my request, Mr. Speaker.

The SPEAKER. The gentleman from Texas modifies his request to include subcommittees, which the Chair thinks would be included in the original request.

Mr. JONES. I should think so.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

### EXTENSION OF REMARKS

Mr. SNELL. Mr. Speaker, I ask unanimous consent to revise and extend in the Record the remarks I made today.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. COFFEE of Washington. Mr. Speaker, I ask unanimous consent to extend my remarks in the Record and include therein a radio address delivered by me.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

The SPEAKER. Under the special order of the House, the gentleman from Maryland [Mr. Lewis] is recognized for 45 minutes.

### PACIFIST OR MILITARIST

Mr. LEWIS of Maryland. Mr. Speaker, in discussing this afternoon the great subject of peace and order in the world just presented so ably in one of its phases by the gentleman from Indiana [Mr. Ludlow], I believe I cannot do better in the interest of clarity than to relate to the House my own mental experience with this subject.

In my boyhood in the mines of Pennsylvania I came under the influence of a very remarkable man, a Welsh coal miner, a Quaker. I shall name him, for his name is worthy of public documentation here or at any time-Joseph Harrison, long gone to his rest. He was a man of phenomenal address, his personality plainly ennobled by his religious convictions, and soon impressed me with his opinions on the subject of peace and war. He made it seem strange to me that governments, organized for the great purpose of suppressing violence and bloodshed as between their subjects or citizens, should themselves claim the privilege of adjusting their controversies by the method of the sword. In short, he made me a pacifist. During the rest of my life I took pains to proclaim his great principles. I was a pacifist in my every thought until that tragic day, the 7th of May 1915, when the Lusitania was sunk, assassinated from beneath the sea, in violation of the long-honored laws of peace and war. The shock made me a militarist and I could think only of punishing the foul transgressor. What did this mean? Here I was a pacifist and a militarist, both at the same time. This conflict of ideas challenged me.

## PEACE AND ORDER INSTITUTIONAL PRODUCTS

Which was right? Was either right, this pacifist or militarist within me? We had recess of Congress at the time, and I took the problem home to think it out. In a couple of weeks the matter cleared up. Joseph Harrison, the Quaker, was right in principle, but his principle implied a certain kind of institution, namely, government, with its rules of conduct prescribing the rights and duties of the countries involved, and courts to decide controversies as to facts or meaning of the law as they arose between nations. In short, it became clear—and this is fundamental to any discussion of our subject—that peace and order in this world are institutional products. You have them in the domestic community generally, because you have those institutions, lawmakers to make the rules of conduct, courts to decide disputes, and sheriffs to look after unyielding recalcitrants.

I found, to be concrete, that I could be a pacifist in my own community of Cumberland. There were laws defining my rights and my neighbors' duties, and if we had a dispute no fight psychology arose; we thought of the law and justice of the peace. If his decisions were unsatisfactory, then a higher court held open its doors. I found, also, I could be a pacifist in our great interstate community, the United States, because flowing from this very body were laws prescribing rights and duties and courts to adjust disputes. Then, however, I made a fundamental discovery. There was one community in which I could not be a pacifist, the community of nations, where nations meet and have their controversies just like individuals. In that community I could not be a pacifist; no; I had to be an anarchist, because that community before the war, the community of nations,

was not functioning under the rule of law but under the rule of force and anarchy when disputes arose. It is true there was a body of international law, the jus gentium, codified from the days of Grotius and De Vattel, but there was no court having jurisdiction to apply its principles to international controversies.

#### RESPONSIBLE CAUSE OF WAR

What are the causes of war? you may be asking. My answer is that the causes of war are innumerable and unpredictable in character. They are not merely economic, not merely the political ambitions of Napoleons and Caesars. They are innumerable and unpredictable in character. I consider the responsible cause of war to be the absence in the international community of a law-and-order organization with adequate agencies, with courts having a real jurisdiction to decide disputes between nations. The responsible cause of yellow fever, the physician will say, is not the mosquito. In our day of light and knowledge, the responsible cause is the absence of netting when mosquitos infest the neighborhood or of proper public measures to eliminate them entirely. So when nations have a serious dispute a war psychology arises between them because there was no court having jurisdiction to decide the dispute.

#### THE LEAGUE AND COURT

Does the United States require such an organization? We know our Republic has been a peace-loving country, yet we have had four foreign wars. Has the sacrificial price been paid to appease the pride of Mars? Witness the 10,000,000 sons of mother humanity dead on European battlefields, and the 20,000,000 crippled or gassed compelled to walk their way through life, not as God made them, qualified by Nature to meet the contingencies of life.

Now, Mr. Speaker, there is such a court, even as first proposed by the Quaker, William Penn. There is such a league. But the United States has been denied the privilege of enjoying the protection of those institutions when controversies arise, not by decisions in this House, I am glad to say, but in a tragic and historic session of the Senate.

A most unhappy oversight occurred to the illustrious great author of that greatest of peace procedures. The Covenant of the League ought to have been referred to this House and the Senate where majority votes should have determined its disposition, instead of to a session of a body where recalcitrant partisan and personal hates taking advantage of the voting rule of one-third plus one might easily encompass the defeat of any program. We should have no Constitution, yea, we should not be meeting here this day if two-thirds majorities had been required in the ratifying conventions.

### SOVEREIGN RIGHTS

Now, what objections have been made, I ask, to the United States joining with others in the noble task of assuring public order in the international community? Oh, rights, certain sovereign rights might be jeopardized, it is said, if we enter the Court or the League. Who made this objection? Not the late Senator Root, not Secretary Stimson, not Chief Justice Hughes, not President Taft, and, surely, not Woodrow Wilson, whose shoe latchets the puny critics of this generation are unworthy to loosen. Who are these objectors? Well, my friends, if you will divide men into two classes, those who do things in the world and those who have to be pushed out of the way while things are being done, you will find these objectors fall in the latter class.

Sovereign rights! When are the rights of our country sovereign—under what circumstances? Well, sir, the United States is sovereign in the 48 States of the Union. It is sovereign in Hawaii, in the Philippines, in Alaska, in Puerto Rico, and sovereign over 3 miles of the waters that wash their shores. It has sovereign exclusive rights wherever it can send its own courts and judges with jurisdiction to decide disputes. But out in the community of nations, out on the high seas, its rights are not exclusive, not sovereign. They are rights—international rights—which the United States enjoys only in common and in equality with all other peoples' rights

whose protection demand international organization. But, sir, as I grow older I am getting impatient with the person who talks only of rights, never of duties, in his course through this life. I want to hear from men and women who think equally of duties. There are no real rights without duties. It was duties that erected this Government. It is duties that are feeding and clothing and schooling the millions of little ones who are to follow us. Rights, rights there were, when the Lusitania went down, rights that had never been doubted-yet, what do we see as we look out on the Atlantic that fateful 7th of May 1915? The faces of 500 women and children, struggling in the waves, looking upward to Heaven and asking the Sovereign of the Universe to grant them a justice and a protection denied them by sovereigns on earth. Rights? Why mock their spirits with such utter futility and cant?

REASONABLE FAITH

"A warless world by court decisions? Who will enforce its decisions?" It is only a dream says the pessimist.

My friends, the trouble with the pessimist is that he dreams just as much as any other dreamer, but he dreams only nightmares. The practical fact is that, given a chance, nations have such a preference for law and order that as to some one hundred and fifty controversies between nations which have been submitted to arbitral tribunals and the World Court in not a single instance has war followed a decision.

In all this consideration, not precedent, not philosophy, not principle are lacking, but another element absolutely essential in all human endeavor, individual or social. It is a reasonable faith, a common-sense faith. We grant it to our insurance companies; we grant it to our courts; we grant it to our executive and legislative institutions—yea, we grant it under perfectly voluntary circumstances to our transportation agencies of travel in the darkness of the night. Why deny this faith to peace and order agencies? It is not the fool who grants this faith; it is the fool who refuses to grant it. To refuse this faith to peace institutions and give it to war instead, now when democracy and civilization are at stake, may mean treason to humanity.

## THE LUDLOW RESOLUTION

Mr. Speaker, what I have said fully explains my own approach to the problem of war prevention and indicates my view of the inadequacy of the Ludlow method. Let me repeat, peace and order are institutional products which the human family has only been able to achieve through the institution of laws, with courts to decide disputes, and other agencies. The method of peace, I think, has been settled by the most extensive experience in the establishment of order in the domestic community. The Ludlow method finds no place in all that experience. Public organization to secure peace and restrain lawbreaking has always been the rule. Organization, whether by patriarch, tribe, king, or republic, but organization always. The Ludlow method is found nowhere, I repeat, in that experience. Indeed, the resolution does not propose any plan through which peace and order may be assured between nations. Wars are to be permissible forever under the Ludlow resolution.

We must, I think, distinguish between two kinds of supporters of the Ludlow method. There is the broad friend of peace and order in America, in Europe, in Asia, everywhere. He is also in favor of the World Court, like William Penn, and necessary organizations preventive of war. I am with him to my last breath. But there is another kind of supporter who rules the whole problem of war prevention out of his consideration. He, he declares, is "not an internationalist" but an isolationist. Not an internationalist-what then-Neanderthal man or Pithecanthropus erectus, perhaps. The anthropologist gives him that range of choice. internationalist." He says this utterly oblivious of the fact that he is "international" in saying it, in a language made up of Sanscrit, Greek, Roman, Germanic, French, and Celtic tongues. He may be saying it perhaps over the radio, whose very existence we owe to a Maxwell, to a Hertz, a Marconi, to the "Edison effect," and scores of engineers in as many different countries of the world. Sir, one need not think twice to realize that our daily lives are governed and served by a precious civilization of composite international origin, whose continued life depends on international support and defense.

The Ludlow method takes no note of all this. It proposes no pax humana, of either Nazarene or Wilson conception. The pax Japonica concerns it not. Wars, foreign wars, it neither condemns nor approves. It ignores entirely the fact that the United States, under the Pact of Paris, is now obligated not to declare war except in self-defense; and the honorable fact that the United States keeps its covenants. Uncle Sam is no treaty breaker. There are no "scraps of paper" scattered guiltily over the floors of the office of our Secretary of State. The Ludlow method essays only to change the manner of declaring war. It reads:

Except in the event of an invasion of the United States or its territorial possessions and attack upon its citizens residing therein, the authority of Congress to declare war shall not become effective until confirmed by a majority of all votes cast thereon in a Nation-wide referendum.

I am, sir, a pacifist, but I can find nothing of the principle of the pacifist in this resolution. Congress and the President are no longer to exercise the power to declare war, as deemed wise by the fathers, except in case of invasion. But who is to say what is an invasion or when it occurs? Congress, I presume. But suppose its decision should be contested in the courts as unconstitutional. Should the country go on waging war against the enemy while its lawyers were defending it in the courts, or obey the courts' injunctions to suspend military operations, awaiting its decision? There may be, as remarked by our colleague the Honorable Charles I. Faddis, facts essential to judgment which our Government knows but cannot safely disclose to the public. Says he in the Forum:

In plans for the continuing defense of a nation, there is another factor. Not all the facts concerning military strength, methods, positions, and objectives can be made public. The warreferendum idea provides for a vote of the people when we are faced with war. But there is no possible way by which the people could be fully informed of what had been done and what remained to be done to thwart the designs of the enemy and protect the Nation. Such information would play squarely into his hands. Yet that very information ought to be a deciding factor in determining whether to make war.

Or again as well stated by the Congressman:

Suppose the vote is against war. Until the enemy arrives on our shores, no move can be made against him. He may decide not to invade at all but rather to destroy shipping and harry commerce in and out of our ports.

Finally, I would ask what is the use of holding such a referendum here unless a like referendum must be held in the enemy country. And what if the two referendums should result in conflicting verdicts? To me the whole plan of referendum suggests futility and folly. The Navy and the Army are about to have a terrific football contest; New York and Chicago, in baseball, have a rubber to play off, to determine their primacy. Why should they go to the expense of having umpires? If disputes arise between the players, why not refer the disputes to the bleachers? They are sufficiently interested to vote, and to come to what? A decision? Indeed, instead of saving this country from a possible foreign war, a referendum of that character, in my judgment, is more likely to involve us in two wars, the foreign war, of course, abetted and encouraged by such sabotage, and another war, here at home, civil in character, more to be dreaded than other wars.

## CHINA AND JAPAN-ECONOMIC SANCTIONS

I will now turn away from this ill-considered proposal to wiser counsels we possess, thank God, within the Republic. I turn to the counsel of our great President in Chicago a few weeks ago. I turn to the statements of his greatly esteemed Secretary of State, the Honorable Cordell Hull. We know that our State Department stands out distinct in one of its aspects. It is never partisan. It is never Republican; it is never Democratic. It is always American, and acts with a view to preserving the peace and promoting the welfare of the country. So as a Democrat, I can consult

the Republican predecessor of our present great Secretary of State, the Honorable Henry L. Stimson.

A few days ago I introduced a joint resolution calling for the application of economic sanctions by the United States in cooperation with other nations, as a means to support our treaty and end Japanese aggressions in China. May I take a moment of your time now to read the conclusions reached with regard to this Chinese-Japanese situation, our immediate problem, by so great an authority as the predecessor of Cordell Hull, the Honorable Henry L. Stimson, free to speak and who did speak freely. What does this great statesman think upon the subject? First, in an open letter, he makes the statement:

Let me make it perfectly clear that in my opinion this is not a case where there should be any thought of America sending armies to participate in a strife that is going on in Asia. Not only is such a course probably militarily impossible, not only would it be abhorrent to our people, but to attempt it would do much more harm than good.

Then he adds:

The lamentable fact is that today the aggression of Japan is being actively assisted by the efforts of men of our own Nation and men of the other great democracy in the world—the British commonwealth of nations. It is not only being actively assisted, but our assistance is so effective and predominant that without it even today the aggression would in all probability be promptly checked and cease.

To what circumstance does he refer? To economic circumstances. We are under no necessity to have war with Japan, but we are under obligation, in both the Paris Pact and the Nine Power Treaty, to maintain and protect the rights covenanted; and that result, in the view of this former Secretary of State, can be obtained by economic methods. Secretary Stimson would not draw forth the Sword of Gideon; but, like Abram with Lot, he would cease trade with Japan. He calls attention to the fact that the United States supplies Japan with half her iron ore and 75 percent of her oil, and buys at the same time 85 percent of her silk by which she secures exchange to pay for our exports.

He continues:

So I say that the first glaring fact which stares us in the face in our analysis of the situation is that China's principal need is not that something should be done by outside nations to help her but that outside nations should cease helping her enemy.

In this grave crisis in the Far East we not only must not fear to face issues of right and wrong but we must not fear to cooperate with other nations who are similarly attempting to face those issues. Failure to act—

He warned-

will not keep this country out of war but will endanger our own peace.

Sir, our liberties, our independence have not been won in the past by condoning great wrongs in other nations. [Applause.] But they may be easily lost in that way. Witness China, if you want to know what such former shirking of duties bring.

I know the skies are hanging darkly over the democracies of the world; are threateningly lowering upon its civilization; but I do not discourage, I do not despair. I believe that the forces of civilization, that the fortitude of a justice-loving people, that the better statesmanship of the leading countries of the world are going to triumph over these evil influences.

We have been promised peace and order by the Father, speaking through the lips of His prophet, Isaiah. The day shall come when the sword shall be beaten into a plowshare. For He doth keep His covenants, the Good Book says, "The hills and the valleys may pass away, but His word endureth forever." [Applause.]

[Here the gavel fell.]

## EXTENSION OF REMARKS

Mr. Dies asked and was given permission to extend his own remarks in the RECORD.

Mr. BARRY. Mr. Speaker, I ask unanimous consent to revise and extend my remarks in the Record concerning our foreign policy, and particularly the policy of isolation. The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. BEITER. Mr. Speaker, I ask unanimous consent to extend my own remarks in the Record and to include therein a letter from the commissioner of labor of the State of New York together with a conference report in that connection on the wage and hour bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. Murdock of Arizona, asked and was given permission to extend his own remarks in the Record.

#### PERMISSION TO ADDRESS THE HOUSE

Mr. CULKIN. Mr. Speaker, I ask unanimous consent that on tomorrow after the disposition of the regular business, and the special orders heretofore entered that I may be permitted to address the House for 20 minutes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. SHANLEY. Mr. Speaker, I ask unanimous consent that on tomorrow after the disposition of the legislative program and the special orders heretofore entered that I may address the House for 10 minutes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

Mr. SNELL. Mr. Speaker, I ask unanimous consent that on Wednesday after the disposition of business on the Speaker's table, unless there is some regular order under the call of the Calendar, that the gentleman from Michigan [Mr. Wolcott] may address the House for 20 minutes.

The SPEAKER pro tempore. The gentleman from New York asks unanimous consent that on Wednesday the gentleman from Michigan [Mr. Wolcott] may be permitted to address the House for 20 minutes after the disposition of business on the Speaker's table and the completion of the legislation program. Is there objection?

There was no objection.

Mr. BRADLEY. Mr. Speaker, I ask unanimous consent that on tomorrow, after the completion of the legislative program and the special orders heretofore entered, that I may address the House for 20 minutes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. KELLER. Mr. Speaker, I ask unanimous consent that on tomorrow, after the completion of the special orders heretofore entered, I may address the House for 3 minutes and 33 seconds.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

## HELEN SHANAHAN

Mr. WARREN. Mr. Speaker, I offer a privileged resolution from the Committee on Accounts and ask for its immediate consideration.

The Clerk read as follows:

### House Resolution 348

Resolved, That there shall be paid out of the contingent fund of the House to Helen Shanahan, widow of William F. Shanahan, late an employee of the House, an amount equal to 6 months' salary compensation, and an additional amount not to exceed \$250, to defray funeral expenses of the said William F. Shanahan.

The resolution was agreed to.

The SPEAKER. Under the special order of the House heretofore made, the gentleman from Michigan [Mr. Mapes] is recognized for 15 minutes.

# DISREGARD OF THE VETERANS' PREFERENCE LAW

Mr. MAPES. Mr. Speaker, I do not care to make a speech, but I do want to call attention to what I considered a clear violation of the spirit, if not the letter, of the veterans' preference law in the filling of a position in the classified civil

service which has come to my attention. How general the practice is I have no way of knowing. I call the matter to the attention particularly of the members of the Veterans' Committee and other veterans of the House, as well as veterans' organizations, and all those interested in the civil service and the merit system throughout the country.

During the summer a vacancy occurred in the rural carrier service at Alto, a small village in Kent County in the Fifth Congressional District of Michigan, the district which I have the honor to represent. In the regular performance of its duty the Civil Service Commission conducted an examination for the purpose of furnishing a list of eligibles to the Post Office Department from which to make the selection to fill the vacancy. A great many took the examination. Finally, the Civil Service Commission certified to the Post Office Department the names of the three standing the highest. Of those three, two were veterans and one was a nonveteran. The two standing the highest were veterans. No. 1 on the eligible list with his veteran's preference had a rating of 100 percent. No. 2 and the nonveteran had the same rating, but under the preference law the veteran was given the preference and stood No. 2 on the eligible list. The nonveteran was last or No. 3. Notwithstanding the fact that the two highest were veterans and the third a nonveteran, the Post Office Department appointed the nonveteran in utter disregard of the spirit at least of the veterans' preference law and all civil-service laws and regulations.

Mrs. ROGERS of Massachusetts. Mr. Speaker, will the gentleman yield?

Mr. MAPES. I yield.

Mrs. ROGERS of Massachusetts. The gentleman does not blame the Civil Service Commission in any way in this, does he? I have found them always very fair and that they worked very finely with a small appropriation. The gentleman doubtless knows that the representatives of the national veterans' organizations have protested to the Civil Service Committee against the discrimination against veterans.

Mr. MAPES. I am glad the gentlewoman from Massachusetts has brought out that point, because the Civil Service Commission was in no way involved in the disregard of the law. I want to make that clear. It acted in the usual manner, performed its duty under the law, and submitted to the Post Office Department, the appointing officer in this case, the names of the three who stood the highest in the examination in the order of their standing.

My attention was called to the matter first after a petition had been circulated and signed by a large proportion of the patrons of the route, protesting against the appointment, and since I returned to Washington for this session of Congress I have received a letter from one of the chapters of Disabled American Veterans in my district protesting against the treatment accorded the veterans.

Mr. KNUTSON. Mr. Speaker, will the gentleman yield?

Mr. MAPES. I yield.

Mr. KNUTSON. Has it occurred to my friend from Michigan that it is just barely possible that the unsuccessful candidates may have refused to buy a Democratic campaign book at \$250?

Mr. MAPES. I do not know about that, although my information is that the two veterans were Republicans and that the nonveteran was a Democrat. The postmistress, of course, is a Democrat. I want to make it clear, however, that there is no question of the fitness or character of any of the people involved. The postmistress is a nice woman; and, as far as I know, the nonveteran who got the appointment is a man of good character and good standing the same as the veterans are. The Post Office Department in its communication to me in regard to the matter certifies to the character and fitness of the veterans. Speaking of the veterans and the reasons why they were not appointed, the letter says, "Such reasons in no way reflected upon their characters or fitness." Apparently it was solely a matter of politics

Mr. Speaker, as the Members of the House well know, the law provides that in making appointments to positions under the classified civil service preference shall be given to honorably discharged soldiers, sailors, and marines. May I say that no one can get the full significance of the action in this case without reading the various statutes with reference to the appointment of veterans and the provisions of the civil service law and regulations as well. If anyone will do that he will appreciate how violent a violation of the spirit of the law the appointment of this nonveteran was.

In addition to the provision to which I have just called attention, there is a further statutory provision, passed in the Deficiency Act of July 11, 1919, as follows:

An appointing officer who passes over the name of a veteran eligible and selects that of a nonveteran with the same or lower rating, shall file with the Civil Service Commission the reasons for so doing.

When this matter was first called to my attention, I recalled that provision of the law, but I did not recollect the subsequent clause which reads as follows:

Which reasons will become a part of the veteran's record but will not be made available to the veteran or to anyone else except in the discretion of the appointing officer.

Notice that language: "Which reasons will become a part of the veteran's record." In other words, these reasons are filed with the veteran's record and become a charge against the veteran, but will not be made available to the veteran or to anyone else except in the discretion of the appointing officer. In fact in this case I have been unable to ascertain what reasons the appointing officer gave for his failure to appoint either one of the veterans.

Referring to the regulations of the Civil Service Commission I find that the President, on December 30, 1911, issued the following Executive order applying particularly to the appointment of rural carriers:

In all cases selections shall be made with sole reference to merit and fitness and without regard to political consideration. No inquiry shall be made as to the political or religious opinions or affiliations of any eligible.

The regulations go on to say that where an inquiry of that nature is made the fact shall be cause for the removal of the appointing officer and "the appointment of the rural carrier concerned, if elected, shall be canceled."

Mr. MICHENER. Will the gentleman yield?

Mr. MAPES. I yield to my colleague from Michigan.

Mr. MICHENER. Has the gentleman inquired of the Post Office Department as to whom the Post Office Department submitted the list of three for recommendation, other than to the local postmaster?

Mr. MAPES. No; I have no definite information as to that, but my understanding is that appointments of this nature have to go through the local Democratic organization, which in this case is the Kent County Democratic Party committee. Upon being consulted with reference to this matter and upon being asked to file the petition of protests of the patrons on this route, I took up the matter with the Post Office Department. I called attention to the fact that the Civil Service Commission had given me the ratings of the three eligibles and to the provisions of the law to which I have just referred. I forwarded the petition to the Department and asked that the matter be reconsidered and that one of the veterans be appointed to the office.

I have here the reply of the Post Office Department, written and signed by the Second Assistant Postmaster General, the substantive part of which I should like to read. After acknowledging receipt of my letter, the letter of the Second Assistant Postmaster General goes on to say:

In filling a vacancy in the rural carrier force the Department is privileged to select any one of the eligibles certified by the Civil Service Commission, provided that if it passes over a veteran to appoint an eligible whose name stands below that of the veteran on the register, it file with the Commission its reasons for so doing.

After a full consideration of the qualifications of the three eligibles certified, the Department, in the exercise of its right of selection, tendered the appointment to Harvey M. Slater, and filed with the Civil Service Commission its reasons for passing over the military eligibles, though such reasons in no way reflected upon their characters or fitness.

If the appointing officer can do that, this veterans' preference law might just as well be stricken from the statute books, because the appointing officer may say, if he chooses to do so, that he did not appoint either one of the veterans because his hair was red or because he did not like his complexion or because, as in this case, he was a Republican, all in clear violation of the spirit, if not the letter, of the civil-service statute and the veterans' preference law. As I stated, I do not know how general this practice has grown in the departments, but here is a case which it seems to me should be called to the attention of Members of the House and to the country.

Mr. CULKIN. Will the gentleman yield?

Mr. MAPES. I yield to the gentleman from New York.

Mr. CULKIN. I sympathize with the gentleman's indignation. May I call the gentleman's attention to a series of articles running in the Christian Science Monitor, which indicates the complete and absolute surrender of the civil-service system to politics? The inference is that the distinguished occupant of the White House gives lip service to the civil service and Field Marshal Farley rapes it at will.

Mr. MAPES. I think the gentleman's statement should be supplemented by the statement the gentlewoman from Massachusetts made to the effect that the fault cannot be laid at the door of the Civil Service Commission. The fault lies entirely with the Congress of the United States and the appointing officers; with the Congress in passing so many laws placing the employees outside of the civil service, and of the appointing officers, as in this case, in disregarding the spirit of those laws already on the statute books and the civil-service regulations.

Let me read the balance of this letter which I received from the Assistant Postmaster General:

From the foregoing you will understand that the appointment of Mr. Slater, which has already become effective, was regular in every way and that the military eligibles were in no way unjustly treated.

This appointment of Mr. Slater, a nonveteran, was made, although in the former paragraph he says the character and fitness of the veterans who outranked Mr. Slater on the eligible list were in no way questioned. Still they were passed over in complete disregard of all civil-service laws and regulations and of the Veterans' Preference Act. There is only one way to correct the wrong that has been done, and that is to cancel the appointment of the nonveteran, as the civil-service laws and regulations provide, and appoint one of the veterans. [Applause.]

[Here the gavel fell.]

# EXTENSION OF REMARKS

Mr. FORD of California asked and was given permission to revise and extend his own remarks in the RECORD.

Mr. MAPES. Mr. Speaker, I ask unanimous consent to revise and extend the remarks which I have just made and to include therein copy of correspondence I have had with the Post Office Department, as well as certain pertinent provisions of the law.

The SPEAKER pro tempore (Mr. Cox). Is there objection to the request of the gentleman from Michigan?

There was no objection.

# PERMISSION TO ADDRESS THE HOUSE

Mrs. ROGERS of Massachusetts. Mr. Speaker, I ask unanimous consent to proceed for one-half minute in order to ask a question of the gentleman from Michigan [Mr. Mapes].

The SPEAKER pro tempore. The Chair is not privileged at this time to recognize the gentlewoman from Massachusetts [Mrs. Rogers] for that purpose.

Mrs. ROGERS of Massachusetts. Will the gentleman from California [Mr. Scott] yield for a half minute?

Mr. SCOTT. I yield to the gentlewoman from Massachusetts.

Mrs. ROGERS of Massachusetts. I thank the gentleman from California. Would the gentleman from Michigan [Mr. Mapes] like to have that case taken up by the Civil Service

Committee, of which I am a member, for investigation? I think the committee would be glad to investigate it.

Mr. MAPES. One of the purposes I had in mind in saying what I have here today was to call the matter to the attention of the proper committees of the House and I shall be glad to have the committee, of which the gentlewoman is a distinguished member, consider the matter.

Mr. FADDIS. Mr. Speaker, I ask unanimous consent that on tomorrow, following the previous special orders, I may be permitted to address the House for 15 minutes.

The SPEAKER pro tempore. The gentleman from Pennsylvania asks unanimous consent that on tomorrow, after the completion of business on the Speaker's desk and following the special orders already entered, he may be permitted to address the House for 15 minutes. Is there objection?

There was no objection.

The SPEAKER pro tempore. Under the previous order of the House, the gentleman from California is recognized for 20 minutes.

Mr. SCOTT. Mr. Speaker, as a rule I do not place very much credence in old adages, but there is one which I am inclined to recognize sometimes and to follow—that is the one which states that where there is smoke you will generally find some fire. I think, in connection with the subject I am going to discuss this afternoon, enough smoke has appeared on the horizon to indicate there is some fire present.

I want to talk for a short time about the Bituminous Coal Commission, its activities, and the publicity it has been receiving just recently. I believe I can qualify to speak on the subject because there is no coal produced in my congressional district. I do not believe there is any coal produced in the State of California, but, if so, it is not an appreciable amount. We do not use very much coal in my congressional district because of the climate, which is warm most of the year. We do not have to heat our homes as do people in other parts of the country. To be sure, we have transportation agencies which do consume some coal to generate steam, but the amount is negligible.

I believe I can also qualify to speak of the Bituminous Coal Commission because the Commission was established under a Democratic administration, and I belong to the Democratic Party. I believe I can qualify, too, because some of the things which have been stated just recently about the Commission affect my State politically because of the personalities involved.

I have no rancor in my heart and I am not gunning for anybody. The fact of the matter is that at this particular time in my life I have a friendly feeling for everybody. However, some things have happened down there which I want to take up, and which I believe the Members of the House might well consider, since we did establish a Coal Commission, which has complete supervision over a billion-dollar industry, and which in this supervision undoubtedly will supplant other governmental institutions in the regulation of interstate commerce, for example. This is particularly true due to the fact that this Commission is taking over the bituminous-coal statistical work of the Bureau of Mines, which has been in charge of such information for years, and has operated very efficiently.

Just the other day Mr. George Edward Acret, who has been the Acting Director of the Division of Trial Examiners, resigned his position, and in doing so made certain serious charges against the Bituminous Coal Commission and others. If there is enough smoke connected with the Bituminous Coal Commission to cause the Chairman of the Commission to offer his resignation first as Chairman and later as Commissioner and then, after each offer of resignation, to withdraw each of them; if there is enough smoke to cause a member of another body to go before the Commission and "lecture" its members; and if there is enough smoke to cause the Acting Director of the Division of Trial Examiners on the day of his resignation to list certain things about the Commission which, he contends, are seriously wrong, then

there is enough fire for the House of Representatives, which established the Commission, to look into the matter and determine whether the statements of the latter gentleman are true or whether the things which have appeared in the papers are untrue and therefore should be recalled.

Mr. Acret was a prominent lawyer in the city of Los Angeles, living in a town as advantageously situated as the city of Long Beach as far as climate is concerned. In 1934 he was a candidate for justice of the Supreme Court of the State of California, and was well enough thought of by the people of the State of California to receive 456,000 votes for this office. When the old Commission was established he, with four others, received an appointment as a Commissioner. There were then five Commissioners, who remained there until the Supreme Court declared the law unconstitutional. Under the new law the new Commission was set up, and four of the old Commissioners were reappointed—Mr. Acret was not reappointed—and three new members were placed on the Board.

A majority of the new Commission, however, almost immediately employed Mr. Acret as the Acting Director of the Division of Trial Examiners. It was his duty as chief examiner to go into the different States and different localities and conduct hearings, to have the producers of coal come before him so that he and his assistants might find facts upon which the Coal Commission could later issue orders regulating the production of coal and regulating commerce in coal; and if the intrastate commerce directly and detrimentally affected interstate commerce, then the Commission's order could regulate intrastate commerce in coal under the provisions of the Coal Act. I want to bring up later one intrastate commerce hearing which was held and the action of the Board afterward as far as that hearing was concerned.

There are some parts of Mr. Acret's charges and of his accusations into which I cannot go. There are some parts of the newspaper stories regarding his accusations which I cannot read because the rules of the House restrain its Members from mentioning individuals connected with the United States Government in another body. However, the story appeared in the Washington Daily News of Wednesday, November 17, and in the Los Angeles Daily News of Thursday, November 18. If you have not already read it, I hope you will get that paper—it may have been in other papers, though I saw the article in that one—and read the entire article.

The first charge the newly resigned Acting Director made is that the Commission, "which has already been in operation for 6 months, is without any sensible or workable form of organization and is loosely and incompetently administered." Of course, this is one man talking. It may be possible this one man is sore about something; it may be a personal grievance. However, I wish to call attention to the fact that the Commission is and has been divided almost from its inception, four against three. I also call your attention to the fact that the four members of the Commission have set themselves up as directing Commissioners, acting for the entire Commission, and to the fact that the law which established the Commission said nothing at all about directing Commissioners.

Stories have appeared in the papers with reference to the difference of opinion between the four and the three Commissioners, so while Mr. Acret may be one individual suffering from a personal grievance, at the same time we must take into consideration the division of opinion in the Commission, about which I shall say more later, and we must also take into consideration that Mr. Acret resigned—he was not fired—what supposedly is a \$10,000-a-year job, and then made these accusations that the Commission is "without any sensible or workable form of organization."

I do not know about that, but I believe there is one way of finding out whether the Commission is operating as it should. I do know this particular Commission has been promising that a scale of rates and of prices would be made effective at any date, going back almost to the middle of

August, and that the schedule of rates has not yet been published.

They were then promised for Thanksgiving. The resigned head of the trial examiners makes the prophecy in the papers that they will not even be in operation by the first of the year and that they will not be "effective" then. I called this morning to find out when they would be available and it was stated that they might be available "at any time now."

The second charge that was made is, I think, a rather serious charge against what is supposed to be an independent commission established by the Congress to do a particular job. That is that "certain political influences and interferences with the normal functioning of the Commission are chiefly responsible for the almost complete break-down of the Commission."

It is hard to get away from political influence on any particular commission. All of us at one time or another think that we see the proper thing to do and we ask commissions to do it. We do not always get what we want, but there are individuals who can, in general, get exactly what they want. It is not right, but it happens. It should be reduced to a minimum.

He refers in his third charge, and I hope you will notice this closely, to the fact there is a fundamental difference existing between two factions of the Commission over the Chairman's "scheme"—I use the same word that Mr. Acret did—to have the Commission "grant at the expense of the general consumer a special below-cost price of coal to the railroads for locomotive fuel."

I asked somebody else who was closely connected with the Commission whether that fundamental difference existed, and he said, "You bet your life it exists, but we hope there is a possibility that when the new rate is published that that difference will not be in there." I asked him if it would be in there and he said, "I cannot tell you now, but it may not be; so I suggest that before you mention the subject that you wait until the schedule of rates comes out and then make the accusation."

This particular difference between members of the Commission dates back to the old Commission set up under the first law. At one time when it was barely possible that the Commission would establish a rate of prices for coal, and at the time the chairman of the Commission was most interested and actively engaged in getting a special below-cost price of coal to the railroads for locomotive fuel, Mr. Acret opposed the granting of that special rate. Another member of that Commission likewise opposed the granting of a special below-cost rate to the railroads, and the chairman of the Commission set up a \$12,500 fund and told Mr. Acret and the other Commissioner that it might be a good idea for them to go to Europe to study coal in foreign countries.

Mr. McFARLANE. Mr. Speaker, will the gentleman yield for a question?

Mr. SCOTT. In just a moment.

That Commission, you will recall, did not have money directly appropriated to it by the Congress for its operation, so it got \$90,000 from the W. P. A. fund for its administration and \$12,500 of that money was set aside on the recommendation of the Chairman for these two gentlemen who opposed the "special below-cost price of coal to the railroads for locomotive fuel" to take a trip to Europe so that, undoubtedly, in their absence the matter could be decided. Both Commissioners, however, refused to take the trip, even though it was made so very attractive.

I now yield to the gentleman from Texas.

Mr. McFARLANE. I appreciate the splendid address the gentleman is making on this subject, and I am wondering if he can tell us the political pressure that is being brought to bear as indicated during the course of his remarks and also whether he can tell us who it is that is applying the political pressure.

Mr. SCOTT. I cannot under the rules of the House. Mr. McFARLANE. The rules of the House or of the Senate? Mr. SCOTT. There are rules of the House that prevent me from referring to certain individuals. The papers carried the story and mentioned names, however.

This fundamental difference still exists between the majority and the minority members of the Commission. Mr. Acret says that when the schedule is printed then the whole thing will come to light, the whole difference of opinion will come to light. Why not bring it to light now and see to what extent those members of the Commission who were in favor of granting a special below-cost price of coal to the railroads were trying to put it over before the rates themselves are established.

Mr. Acret was the acting director of the division of trial examiners until just the other day. Mr. Acret at one time was told that it would be to his advantage to "go along" with the Chairman.

I have heard the words before, used by the same individual, who told a prominent friend of mine in Los Angeles that it might be a good idea to "get along" with a certain lawyer in Los Angeles. I refrain from mentioning his name because it might be an infringement of the rules of the House. Later the Chairman of the Commission was told to fire Mr. Acret as the acting director because of his opposition to this scheme, as he refers to it, of the Chairman of the Board. Last September the personnel man in the Commission notified Mr. Acret that he was dismissed. Mr. Acret took the notice to a minority member of the Commission and said. "Look at that." The dismissal was entirely unauthorized by the Commission. This minority member of the Commission called five newspapermen and said, "Come down to the meeting. It might be interesting." When they appeared the Chairman of the Commission came in and said to this minority member of the Commission, "Just forget about that Acret dismissal: I have withdrawn that." It was not until 2 months after that occurrence that Mr. Acret resigned his position as Acting Director.

Mr. Acret makes the charge also that some of the present Commissioners are continually subject to the fear of political reprisals and are thus in danger of being "so influenced that they cannot reach independent decisions." The Commission at one time was told, in substance, that, "If you fellows cannot get along down here, cannot work together, cannot reach an agreement of your differences, there is a possibility that the membership of the Commission will be cut from seven to three, and four of you will lose your jobs."

The Acting Director, who has just resigned, says that the Commission is at the point of becoming "a national scandal." I, then, as one who voted for the creation of the Bituminous Coal Commission, am interested to the extent that I do not want to see it become a national scandal and reflect discredit upon the judgment that I exercised in voting to establish the Commission—a Commission that is regulating, understand, a billion-dollar industry.

He charges, sixth, that although the Commission now announces that there will be prices effective at Thanksgiving, that these prices will not in reality be put into operation until much later, and that under pending proceedings they will not be effective then, because of certain basic legal defects in the Commission's loose manner of conducting its legal affairs.

That is the charge made by a prominent and reputable Los Angeles attorney whose ability, whose integrity, nobody has ever questioned. Yet, when he made the charges that he did against certain individuals, those certain individuals retaliated, not by answering his charges, not by saying that they are untrue, but by making a direct personal attack on the man who said it. I have had some experience with that in the past from the same individual who now attacks Mr. Acret. At one time I saw fit to criticize something that he had done and asked him for an explanation. In place of getting the explanation, I got personal abuse in a letter from him—a letter which he gave to the newspapers.

To resume:

They (the prices) will not be effective then because of certain basic legal defects in the Commission's loose manner of conducting its legal affairs.

That is from the man who received 456,000 votes from the people of the State of California for the office of justice of the Supreme Court of the State of California.

Mr. Acret says, finally, that-

The so-called directing Commissioners, a self-styled dominating body, wholly unauthorized by statute, are guilty of unbelievably disgraceful incompetence and extravagant waste in their administration of the billion-dollar bituminous-coal industry.

The Commission appointed this man as Director of the Trial Examiner Division. He had been a member of the old Commission.

Certainly anybody in whom the present Commission had enough confidence to place in the very important position of Acting Director of the Trial Examiner Division, a large division, composed of able men acting in the capacity of trial judges, ought to be given the courtesy of very serious consideration when he makes charges of the serious character which have been made in Mr. Acret's written statement. These charges cannot be considered as a just case where an individual who, through pique or prejudice, makes state-ments which cannot be sustained. The charges Mr. Acret has made are such that it would be unwise for him from any standpoint to make them at random. He has produced for me certain documents, which, I think, are on the fore of them, substantial evidence for reaching a conclusion that the Coal Commission is guilty of "unbelievably disgraceful incompetence," and that "under pending proceedings the present rates will not be effective then (on January 1) because of certain basic legal defects in the Commission's loose manner of conducting its legal affairs."

Last July the Commission directed Mr. Acret, as Director of the Trial Examiner Division, to go into the State of Ohio and to hold a hearing there to determine whether Ohio intrastate commerce could be brought under the jurisdiction of the Federal Government. He conducted those hearings and prepared his findings of fact and filed them with the Commission, with the intention that the Commission use these findings of fact as a basis for an order that would bring intrastate commerce in coal in Ohio under the control of the National Bituminous Coal Commission, subject to the individual's right to make claim for exemption. In order to accomplish this it was necessary, under the express requirements of the Coal Act, that these findings of fact clearly establish certain very definite, very conclusive facts that intrastate commerce in coal in Ohio directly affects interstate commerce. Instead of accepting Mr. Acret's very able report the Commission referred the report to the legal staff of the Commission—to the lawyers who had represented one side of the case in Mr. Acret's court. Mr. Acret states that the reason for this extraordinary procedure was the Chairman's personal animosity toward him.

Mr. Acret makes the charge that when his findings were referred to the legal division they changed them around as much as possible so that nobody could recognize them as the old findings of fact; that they changed parts here and parts there, but continued to use his findings as a basis for their findings of fact, and then used these substituted findings as a basis upon which to establish the Commission's order bringing all intrastate commerce in coal in the State of Ohio under the Commission's jurisdiction. In doing so, the legal division so jumbled the facts, and made so many mistakes in copying the facts, and omitted so many material facts, that the findings of fact which they will have to present in court to make their order stand up, are so vague, are so incomplete, are so jumbled, that no court will ever uphold the Commission's order.

Mr. JENKINS of Ohio. Will the gentleman yield? Mr. SCOTT. I yield.

Mr. JENKINS of Ohio. I am very much interested in what the gentleman is saying about Ohio coal. I am sorry I did not hear the first part of the gentleman's remarks. Has the gentleman already laid the basis of all the historical facts with reference to the separation of this gentleman from the service?

Mr. SCOTT. Yes.

Mr. JENKINS of Ohio. I am sorry I missed that.

Mr. SCOTT. He resigned.

Mr. JENKINS of Ohio. I am very much interested in this phase of it, and I made inquiry today on this one point: I understood from the newspapers that the Commission had decided that all coal produced in Ohio was interstate coal. I cannot, for the life of me, see how they could make that sort of finding, because when we passed that bill, and when the bill was considered in the Ways and Means Committee, of which committee I am a member, I took a very active interest in the consideration and passage of the bill. I maintained on this floor that there would be some instances where coal could be produced in Ohio that would not be interstate, and consequently could not come within the purview of that law. When I noticed in the newspapers that they had made that sort of finding, naturally I was very much interested. I shall follow the gentleman's discussion with a great deal of interest.

Mr. SCOTT. The gentleman raised the question about Ohio. After the trial division presented its findings of fact and prepared an order the Acting Director of the Trial Examiner's Division, before he resigned, made an analysis of his findings of fact and the legal division's findings of fact, showing the errors, showing what the legal division has done, and showing why its findings of fact will not be sufficient to stand up in court if anybody attacks the order that is made.

I have that analysis with me.

I ask unanimous consent now, Mr. Speaker, that in the revision I may make reference to certain excerpts from the report that was prepared by the Acting Director of the Trial Examiner's Division of the Bituminous Coal Commission.

The SPEAKER pro tempore. Without objection, it is so ordered.

There was no objection.

Mr. SCOTT. This reads as follows:

NOVEMBER 18, 1937.

To: Commissioner John C. Lewis.

From: George Edward Acret.
Subject: Fatal defects in findings of fact of the Commission re

Ohio Intrastate Commerce Proceeding, No. 18 FD.
On August 10, 1937, as the trial examiner who presided at the
hearing held for the purpose of laying the legal foundation to sub-On August 10, 1937, as the trial examiner who presided at the hearing held for the purpose of laying the legal foundation to subject intrastate commerce in bituminous coal in the State of Ohio to the jurisdiction of the Bituminous Coal Act, I delivered to the Chairman my findings of fact and conclusions of law and a proposed form of order. In view of the importance of this proceeding these documents were prepared with great care and in a workmanlike manner. Though no defect was found in their accuracy and correctness in every respect, I understand that, nevertheless, the Legal Division of the Commission went beyond its function and undertook to prepare a substitute for the examiner's findings and conclusions, and that these substituted findings and conclusions, and that these substituted findings and conclusions have recently been adopted by the Commission. Inasmuch as they are intended as a guide for similar proceedings which are being held with reference to all of the other coal States in this important matter, and inasmuch as they are fatally defective, it is my duty to call to your attention the serious situation which now exists.

I understand that the findings of fact as adopted by the Commission, after being held up for more than 12 weeks of unwarranted consideration by the Legal Division, contained, when adopted by the Commission, additional errors than those hereinbelow set forth. I further understand that no findings of fact upon which the Commission in unit many days after the order was published, and that the defective findings as adopted by the Commission have since been changed without authority of law.

Based upon these substituted findings as adopted by the Commission have since been changed without authority of law.

Based upon these substituted findings as adopted by the Commission. Irrespective of the express requirements of the Commission. Irrespective of the express requirements of the Commission. Irrespective of the express requirements of the Commission's order that all transactions in in

1. Because the Commission's substituted findings upon their face show substantial misstatements and errors concerning well-known facts of the industry and concerning the facts and figures adduced at

the hearing.

2. Because the Commission's substituted findings do not find that any definitely stated coal in intrastate commerce in Ohio is in competition with interstate commerce in any definitely stated locality, or localities, in the State of Ohio.

3. Because the Commission's substituted findings do not find facts sufficient to justify the Commission's purported conclusion that coal in interstate commerce in Ohio directly, detrimentally affects interstate commerce.

#### POINT I

The Commission's substituted findings are insufficient to support the Commission's order because they show upon their face substantial misstatements and errors concerning well-known facts of the industry and concerning the facts and figures adduced at the

At the outset the Commission found on page 2 of its substituted

findings as follows:

"2. That during the years of 1929 and 1934 to 1936, inclusive, there was a total of 88,861,334 tons of bituminous coal produced in Ohio."

Ohio."

All of the figures embodied in the above-quoted total were presented at the hearing with the express understanding that such figures did not include the important item of any tonnage produced by the substantial number of wagon and truck mines in Ohio producing less than 1,000 tons per year, and did not include the substantial item of coal used by railroads and steamships, each of which limitations the Commission's findings, as above quoted, do not mention. This finding is incorrect in addition by approximately a mere matter of 50,000,000 tons by reason of the fact that no figures were available concerning the years 1930 to 1933. The correct finding should have been as contained on page 27 of the Examiner's Findavailable concerning the years 1930 to 1933. The correct finding should have been as contained on page 27 of the Examiner's Findings of Fact, which reads as follows:

"27. The production of bituminous coal in the State of Ohio for various years since 1929, exclusive of that produced by wagon and truck mines producing less than 1,000 tons annually, and the amount of such coal consumed in Ohio, exclusive of coal used by railroads and steamships, all in net tons, is as follows:

Year	Production	Amount consumed in Ohio
1929	23, 689, 477	10, 428, 415
1934	20, 690, 564	11, 220, 233
1935	21, 153, 151	11, 638, 877
1936	23, 327, 480	12, 730, 011

"The balance of coal which was produced and not used in the State of Ohio was shipped to surrounding States and elsewhere in interstate commerce.

Obviously, whoever undertook to reframe the examiner's findings overlooked the fact that the total tonnage for the years 1929, 1934, 1935, and 1936 is indicative of nothing, and certainly does not represent the total production "during the years 1929 and 1934 to 1936, inclusive." In addition, a clerical error appears and 1934 to 1930, inclusive." In addition, a ciercal error appears to have been made making this total, since the separate items, if totaled at all, should total 188,860,672 and not 188,861,334 The total being incorrect in four separate columns by reason errors of addition, is, of course, a small matter as compared to the error of about 50,000,000 tons as above stated by reason of the misapplication of these separate items and as compared to the omission of a statement of the other factors and limitations

The next finding of the Commission is in error for a similar reason. Paragraph 3 purports likewise to state the total consumption of coal in Ohio "during 1929 and 1934 to 1936, inclusive," when

tion of coal in Ohio "during 1929 and 1934 to 1936, inclusive," when in fact such total likewise merely represents the consumption in Ohio during the separate years of 1929, 1934, and 1936. This finding is, therefore, in error by approximately 30,000,000 tons. As stated, a total covering various odd years is, of course, indicative of nothing. An inspection of the findings prepared by the examiner and of the findings adopted by the Commission will indicate that someone merely took the examiner's findings and placed first that which came last and undertook to restate most of the figures contained in the examiner's findings in a left-handed or reversed form with the result that serious errors and omissions have intervened. These substituted findings state that the Commission "differs somewhat from the findings of the examiner." A comparison of the two documents, however, discloses no points of "differs somewhat from the findings of the examiner." A comparison of the two documents, however, discloses no points of difference except errors of computation, petty transformations, and serious omissions of fact from the Commission's substituted findings, thereby illustrating the necessity of the rule under which good practice requires that all important documents be prepared from original sources in order to avoid what is termed in legal and engineering parlance "accumulated errors."

Let me illustrate this point further. The findings

Let me illustrate this point further. The findings of the trial

examiner on page 23 are as follows:

"Of the 49,055,000 tons consumed in Ohio in 1929, 10,428,415 tons were the production of Ohio mines and the difference came into Ohio in interstate commerce from these six competing States. In 1929, 21.2 percent of the total consumption was Ohio coal."

The Commission, however, in its substituted findings stated as

"7. That during the year 1929 the State of Ohio consumed a total of 25,365,523 tons more than was produced within the State. "8. That tonnage of interstate shipments of bituminous coal consumed within the State of Ohio during the year 1929 was 38,627,585 tons, which was 79.8 percent of the total consumption of coal within the State."

The difficulty with this, in addition to the fact that the statement does not correspond to the form of the proof, is that, whoever prepared these substituted findings, in making his left-handed ever prepared these substituted findings, in making his left-handed restatement, made an error in subtraction of approximately 1,000,000 tons. Also, the substituted findings purport to subtract 21.9 percent from 100 percent to secure the percentage of Ohio interstate coal of the total Ohio consumption and thereby secure a result of 79.8 percent, thus, of course, making the total Ohio consumption the extraordinary amount of 101 percent and thereby giving further evidence of the necessity of following the rule that all important documents be prepared from original and not secondary sources. secondary sources

The Commission's substituted findings are replete with errors similar to those above set forth as to both facts and figures. It should not, however, be necessary to further develop this point in view of the fact that there are still more serious errors to be discussed which go to the very gist of the entire proceedings.

#### POINT II

The Commission's substituted findings are insufficient because they do not find that any definitely stated amount of coal in intrastate commerce in Ohio is in competition with interstate commerce in any definitely stated locality or localities in the State of Ohio

It will, of course, be conceded that one of the necessary elements for an order subjecting Ohio intrastate coal to Federal regulation is a finding that there is in fact competition between Ohio interstate coal and some definitely stated amount of intra-state coal in certain definitely stated localities in the State of Ohio. The Commission's finding of this necessary and specific element is as follows:

"13. That a large number of representative cities and towns throughout the State of Ohio, numbering over 1,000, received shipments by rail of bituminous coal from both intrastate and interstate origins in 1936; that there is keen and active competition of intrastate commerce in bituminous coal with interstate commerce in bituminous coal with interstate commerce in bituminous coal in substantially all coal markets in the State; that the evidence of production and distribution presented concerning previous years establishes the fact that the distribution of coal in intrastate transactions and interstate shipments by rall in Ohio, follow generally the conditions prevailing in Ohio in 1936; that, in addition, there are large shipments of intrastate and interstate bituminous coals moving by trucks into the several large consuming market areas; and that this coal engages in keen and active competition with interstate and intrastate rail coal."

There is no place either in the Commission's substituted findings or in the Commission's conclusions as to what coal or localities the State of Ohio are referred to in the above-quoted finding. in the State of Ohio are referred to in the above-quoted finding. In the substituted findings and conclusions the practice is adopted throughout of referring to the coal and localities sought to be subjected to the jurisdiction of the act as merely "coal" and "localities." It is obvious that the use of the words coal and localities, standing alone, is a partitive construction meaning, merely, "some coal" in an indefinite amount, from some unidentified mine or mines, is in competition with interstate coal in some two or more localities in the State of Ohio, without any indication of what such a "locality" consists, or where such locality, or localities may be located localities, may be located.

It is also obvious that the expression "a large number of representative cities and towns \* \* \* numbering over 1,000," merely indicates that there are more than 1,000 of such cities and merely indicates that there are more than 1,000 of such cities and towns, and that this indefinite number, over 1,000, is not included among those destinations which receive coal in interstate commerce. Likewise, the words "substantially all coal markets in the State" indicate that there are an indefinite number of "coal markets" in which there is not any competition between interstate and intrastate commerce in coal in Ohio. Of course findings of fact cannot be made in any such loose manner. Findings of fact, to have any legal effect, or any sensible meaning, must be made in a much more precise manner. Under these findings the attorney for any producer in the State, and the charge of any court, may rightfully claim that the particular coal of any producer and the rightfully claim that the particular coal of any producer and the particular market in Ohio to which his coal goes is not covered by the Commission's findings and is within the Commission's implied and admitted, but undefined, exceptions. It would seem that one need not be a lawyer to understand this simple proposition.

Since the Commission has formally made an order attempting to subject Ohio coal in intrastate commerce in Ohio sold in all localities of the State to the jurisdiction of the act, the Commission should certainly have made its findings as broad as its order. They are expressly required to be so by the Coal Act. The findings which were necessary to sustain the Commission's order were those contained at page 22 of the examiner's findings, which are as follows: follows:

"The Ohio coal which is consumed within the State is shipped in intrastate commerce by either rail, water, truck, or wagon to every locality, county, and destination within the State, and is used within the State for all purposes for which coal is used. All of such coal, of every kind, quality, use, and description, and however transported, insofar as is revealed by the record herein, as to all localities, counties, and destinations in the State of Ohio, is in direct, very active, keen, destructive, and cutthroat competition at each of such localities, counties, and destinations with all of the coal hereinafter referred to, of every kind, use, and description, which comes into the State in interstate commerce from other States, to each and all of such localities, counties, and destinations." 'The Ohio coal which is consumed within the State is shipped

A similar fatal defect is carried over into the Commission's purported conclusions which were substituted for the conclusions made by the examiner. The Commission has actually stated no conclusions but has merely stated that which purport to be conclusions but which are in fact additional defective findings of fact. These purported conclusions were obviously taken from the findings made by the examiner, but the necessary words to make these findings effective in any respect have been omitted. On page 9 of the Commission's substituted conclusions the Commission purports to conclude, with emphasis added by me, as follows:

"1. That bituminous coal consumed in the State of Ohio, which is produced within the State of Ohio and shipped to Ohio destinations, is in direct, keen, active, and continuous competition with

tions, is in direct, keen, active, and continuous competition with bituminous coal shipped to the same markets from interstate sources and transactions in bituminous coal in intrastate com-merce between localities in Ohio directly affect and prevent the free flow of interstate commerce in bituminous coal from producing localities without the State of Ohio; that transactions in intrastate commerce in bituminous coal within tht State of Ohio intrastate commerce in bituminous coal within the state of Ohio at unregulated prices will depend upon interstate transactions in coal moving from Ohio producers to markets that are regulated in order to maintain the unregulated prices in Ohio markets; that interstate shippers, subject to regulated prices, will be unable to compete in unregulated markets in Ohio."

In addition to covering no definite coal in any definite locality, the above paragraph is also defective because the last two sentences have no sensible meaning. Apparently, whoever made the transposition from the examiner's findings further "lost his way" in these two sentences.

in these two sentences

The above-quoted purported conclusion is contained as part of the examiner's findings of fact properly stated, and placed where it belongs in the findings of fact, is as follows:

"43. By reason of all of the foregoing facts and by reason of the heretofore-mentioned destructive and cutthroat competition, if any of the coal produced in Ohio and consumed in Ohio in and if any of the coal produced in Onlo and consumed in Onlo in and from any locality, county, or destination within such State, of any kind, character, or description, or for any use or purpose, were not subjected to regulation under the Bituminous Coal Act of 1937, all coal of every kind, character, or description, and for any use or purpose, coming into the State of Ohio in interstate commerce to any and all localities, counties, and destinations, would be directly affected to the extent that such Ohio coal is left unregulated and the interstate bituminous coal market in Ohio would be and become further demoralized and to an extent greater than such demoralization exists at the present time, for the reason that a producer of Ohio coal whose coal is left unregulated, would be free to, and would, cut prices to an extent sufficient to completely exclude an equivalent amount of coal heretofore coming into the State of Ohio from competing States.

coming into the State of Ohio from competing States.

"44. All transactions in Ohio intrastate coal in and at all localities and counties in such State now directly affect and will continue to directly affect, and for a long time past have directly affected, interstate commerce in all coal moving into Ohio from all competing States in and to each and all localities, counties, and destinations in such State, and, insofar as is revealed by the record herein, all transactions in Ohio intrastate coal of every kind, character, and description, and for every king and nurrose now directly. acter, and description, and for every use and purpose, now directly affect, and will continue to directly affect, and for a long time past have directly affected, all such interstate commerce in all such interstate coal.

"45. If transactions of bituminous coal in intrastate commerce in Ohio as to all localities, counties, and destinations, of such State were unregulated under the provisions of the Bituminous Coal Act of 1937, such transactions would cause an undue and unreasonable advantage and preference in favor of each of such localities, counties, and destinations, and against all coal coming into the State of Ohio from competing States, and would cause an undue, unreasonable, and unjust discrimination against all of such coal coming into the State of Ohio from such competing States."

The trial examiner followed these findings by appropriate con-clusions of law which appear to have become lost in the substi-tuted findings and conclusions as adopted by the Commission, and, as a result, the Commission's findings and purported conclusions contain no conclusions of law at all.

Attention is respectfully directed to the fact that the order adopted by the Commission directly follows and apparently appropriates the exact wording of conclusion No. 4 of the examiner's conclusions. This is, of course, partly the purpose of conclusions, to wit, a guide to the form of the order.

It should not be necessary to point out the legal effect of any single one of the deficiencies set forth under this point. It should be noted that these defects are carried over into the Commission's purported conclusions of law and into the Commission's order.

# POINT III

The Commission's substituted findings are insufficient to support the Commission's order because they do not find facts suffi-cient to justify the Commission's purported conclusion that coal in intrastate commerce in Ohio directly and detrimentally affects interstate commerce.

It will doubtless be admitted that it is not sufficient for the It will doubtless be admitted that it is not sufficient for the findings of fact to establish merely that there is keen and active competition between certain definitely described intrastate and interstate coal in Ohio in certain definitely described localities in the State of Ohio (if such coal and localities were definitely described) but that, in addition, it is also necessary that there be found facts establishing that such competition directly and detrimentally affects such interstate commerce. The basic facts which cause and which will continue to cause such competition to affect all transactions in bituminous coal to the detriment of interstate commerce are well known throughout the bituminous coal industry. These facts are numerous and relate to the bituminous coal industry alone. It is the concurrence of all and each of these facts which causes the detrimental effect of Ohio intrastate coal upon interstate coal as stated in the Commission's order.

The examiner made findings as to each of these peculiar, exclusive, and concurring basic facts in the first 26 paragraphs of his findings, which findings in this respect consist of a complete dissertation of the outstanding facts of the bituminous coal industry. These basic facts, ipso facto, establish the conclusions reached in the examiner's report. These facts show why the coal industry, of necessity, is continuously engaged in selling coal, on the average, at prices substantially below the cost of production; why competition in the industry is carried to the nth degree; why, as a natural consequence, such conditions in the industry cause competition in intrastate coal in Ohio to be so seriously detrimental to interstate commerce as to inevitably destroy intrastate commerce in Ohio is an absolute necessity not only from the standpoint of the welfare of the operator and of the mine labor, but also from the standpoint of the public welfare with relation to conservation and mine safety.

The Commission recognizes the importance of these basic facts by making reference to many of them in its opinion rendered in

The Commission recognizes the importance of these basic facts by making reference to many of them in its opinion rendered in this proceeding. And yet but two or three of these basic facts, the concurrence of all of which is necessary to establish the Commission's right to regulate intrastate commerce, are made a part of the Commission's substituted findings of fact. That essential part of this case which is covered in the first 26 paragraphs of the examiner's findings of fact is transposed only in part into one paragraph at the end of the Commission's findings. This one paragraph and the Commission's other substituted findings are totally insufficient to sustain the all-embracing order which the Commission has made that all intrastate coal in Ohio directly affects all Ohio interstate commerce and causes unreasonable and unjust discrimination against such interstate commerce.

discrimination against such interstate commerce.

The Federal Government cannot subject to the penalty of the Coal Act the intrastate commerce of Ohio, or any other State, in any such loose manner.

It is my opinion that the order of the Commission in this proceeding, by reason of each, or any, of the hereinbefore-mentioned defects is void. The Commission, of course, has now no jurisdiction to change its findings or its order in any respect and the order should therefore be vacated. New proceedings should be commenced from the beginning and a new hearing had. Instructions of the Commission are respectfully requested as to proceedings which have been had, or which are about to be had, in 25 or 30 other States of the United States.

GEORGE EDWARD ACRET,
Acting Director, Division of Trial Examiners,
National Bituminous Coal Commission.

The SPEAKER pro tempore. The time of the gentleman from California has expired.

Mr. CHURCH. Mr. Speaker. I ask unanimous consent that

Mr. CHURCH. Mr. Speaker, I ask unanimous consent that the gentleman be granted 5 additional minutes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. JENKINS of Ohio. Mr. Speaker, will the gentleman yield?

Mr. SCOTT. I yield.

Mr. JENKINS of Ohio. For fear that the gentleman does not have time to finish, would the gentleman care to express to me his own personal opinion as to whether the report made by this man about whom we are talking is contrary to the general report that all coal produced in Ohio is held subject to interstate commerce?

Mr. SCOTT. No; it is not. His finding was that all intrastate coal in Ohio directly affects interstate commerce. subject to the individual operator's right to make claim for exemption, but the point I am making is that after he brought out his findings upon which he recommended that an order be issued bringing all coal under the Bituminous Coal Commission's jurisdiction, the legal division, rather than take his report, prepared and made new findings of fact and based their order on it, but the findings which they brought forward were so poorly drawn up and lacking in facts that if it is attacked in the courts it cannot stand. Since every other State that produces coal is going to be faced with the same situation, it is going to be precedent for every other State, and the thing they will have to do, since the order has been issued, and cannot be changed, is to throw the whole thing aside and start the thing all over again; conduct the entire hearings over again and establish the facts and proceed as they should have proceeded at first. This is but one example of many which seem to support Mr. Acret's charge that the Commission is guilty of "unbelievably disgraceful incompetence." I feel fairly sure that an examination of Mr. Acret's analysis of the Commission's defective findings in this proceeding will bring conviction that these findings constitute one of the most astonishingly incompetent documents ever promulgated by any Government bureau.

Mr. JENKINS of Ohio. If the gentleman will yield further for an observation, it is my opinion from the study I have made of this question that coal can be produced in Ohio or any other State that will not be subject to the purview of this law.

Mr. SCOTT. In the revision of my remarks I intend to go very fully into the subject of his findings and a review of them, but in the remaining time let me remind you again that this man is a reputable and prominent attorney of high standing, that he was a member of the old Commission, that he was appointed by the majority of the Commission to an important position with it, that he conducted the hearings in the first State where the precedent was to be established for all further activity so far as the Bituminous Coal Commission is concerned and their control over the production of coal, that he resigned and said that the so-called directing Commissioners, a self-styled dominating body, wholly unauthorized by statute, are "guilty of unbelievably disgraceful incompetence and extravagant waste in their administration of the billion-dollar bituminous-coal industry."

I believe, once more, that where there is smoke there is fire, and have introduced a resolution that recites the charges that he has made and concludes with the only action that we in the House of Representatives have available in dealing with a situation of this kind: That a committee of the House composed of seven Members, as nonpartisan as can be found, be appointed to investigate particularly the charges that have been made by the man who resigned as acting director. That the investigation be made not in the form of a trial, but that the Speaker have the power to establish the committee to make its own investigation and report back to the House what they find out. If we appoint a commission and turn it loose, things can happen to it that even the commissioners themselves do not want to have happen. The commissioners are very often brought under such complete domination or are under such constant fear of political reprisal that they will do things that they themselves do not approve.

I ask you now to read the account of the resignation of Mr. Acret in the Washington Daily News of Wednesday, November 17, and establish in your minds the reasons why I am asking that this investigation be conducted at the present time.

I thank you. [Applause.]

THE LATE HONORABLE HUBERT HASKELL PEAVEY, FORMER MEMBER OF CONGRESS

Mr. GEHRMANN. Mr. Speaker, I ask unanimous consent to address the House for 2 minutes.

The SPEAKER pro tempore. The gentleman from Kansas is entitled to be recognized at this time. Does he yield for this purpose?

Mr. LAMBERTSON. I yield, Mr. Speaker.

Mr. GEHRMANN. Mr. Speaker, it is with extreme regret and profound sorrow that I learned of the death of my predecessor, Hubert Haskell Peavey, who distinguished himself by serving in this body from the Sixty-eighth to the Seventy-third Congress, inclusive.

Hubert Peavey, a friend of mine for many years, had not been very well during the last year or two, but certainly no one expected that he would pass from our midst so suddenly. I hereby publicly wish to extend my profound sympathy to his bereaved widow and children. His majorities accorded him by the electorate pay tribute to his popularity, because the majorities over the 12-year period amounted to more than the combined pluralities of his opponents. He served

on several important committees of the House and was the author of many important acts of Congress.

Mr. Peavey was born January 12, 1881, at Adams, Minn. His home city of Washburn, Wis., honored him by electing him as mayor for three terms, and he also represented his county in the Wisconsin Legislature. He was eminent and highly regarded in the journalism profession as a publisher of a weekly newspaper. During the World War he organized a company of volunteers and was immediately commissioned a captain. He served in that capacity for 17 months with the Thirty-second Division.

Mr. Peavey leaves to mourn his passing his widow and four children. He died November 21, 1937, and his presence and counsel will be missed by thousands of his admirers and followers in northern Wisconsin.

## EXTENSION OF REMARKS .

Mr. SHANNON. Mr. Speaker, will the gentleman from Kansas yield to permit me to submit a unanimous consent request?

Mr. LAMBERTSON. I yield for that purpose.

Mr. SHANNON. Mr. Speaker, I ask unanimous consent to extend my remarks in the Record and to include therein a sermon by the founder of the Campbellite Church on the question of war.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

### THE JEFFERSON MEMORIAL IN ST. LOUIS, MO.

The SPEAKER pro tempore. Under previous order of the House the Chair recognizes the gentleman from Kansas [Mr. Lambertson].

Mr. LAMBERTSON. Mr. Speaker, I feel as though I should apologize every time I take the floor to discuss the St. Louis Jefferson Memorial proposal, but this scheme is getting to be a very serious proposition. Last week the mayor of St. Louis, the city counselor, and the United States district attorney all came here to Washington to try to persuade the National Park Service or the Department of Justice to help in evolving some new scheme to get the money for this memorial before the condemnation proceedings which are now under way in St. Louis are disposed of. The promoters are far too anxious to get this project started. Now, I do not know what success has accompanied the efforts of these gentlemen in behalf of the memorial promoters. However, at this time I ask, Mr. Speaker, for unanimous consent to revise and extend my remarks in the RECORD and to include three editorials from a St. Louis newspaper dealing with various phases of the memorial matter.

Mr. ZIMMERMAN. Mr. Speaker, reserving the right to object, would the gentleman mind stating in advance from what newspaper these editorials are taken?

Mr. LAMBERTSON. They are three editorials that appeared in the Post-Dispatch in the last 10 days.

Mr. ZIMMERMAN. Does the gentleman vouch for the verity of the statements that are published in the Post-Dispatch with reference to the Jefferson Memorial?

Mr. LAMBERTSON. Oh, I think so. Mr. ZIMMERMAN. The gentleman does!

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kansas?

There was no objection.

Mr. LAMBERTSON. I may say that the Post-Dispatch stands very high in the newspaper field, not only of St. Louis but of the United States. Only last year it received the Pulitzer prize for the most distinguished and independent editorials of the Nation. That is the character of the paper whose editorials I shall insert in my remarks.

Mr. ZIMMERMAN. Mr. Speaker, will the gentleman yield further?

Mr. LAMBERTSON. I yield.

Mr. ZIMMERMAN. Is the gentleman aware of the fact that at one time in its history the Post-Dispatch was a very liberal newspaper and championed the cause of the common people, but that for some mysterious reason in recent years

it has had a sudden change of heart and has reversed its whole policy of many years—

Mr. LAMBERTSON. Mr. Speaker, I yielded to the gentleman for a question, not a speech.

Mr. ZIMMERMAN. I just wanted the gentleman to know what the Post-Dispatch has really done.

Mr. LAMBERTSON. I think the Post-Dispatch still adheres to its original policy of championing the cause of the common people. I want the Members to understand that in the city of St. Louis this great newspaper, this newspaper with a glorious past, takes the same attitude toward this memorial that I have taken. I have no reason to believe that the Post-Dispatch has changed its independent viewpoint in the least.

Mr. ZIMMERMAN. Mr. Speaker, will the gentleman yield?

Mr. LAMBERTSON. Mr. Speaker, I cannot yield. I have but 10 minutes and I have already yielded twice to the gentleman from Missouri. I am glad my friend from Missouri is here. Thirteen times I have spoken against this memorial. I have challenged the Members from Missouri to take this floor and defend it, and not once in the last 7 months has a single Member from Missouri taken this floor to defend this proposal. Now, if the gentleman wants to defend this proposal let him get his own time and stand up here and tell the people of St. Louis and of southern Missouri, where he comes from, how it can be justified.

I rather dare him to do it.

Mr. RICH. Will the gentleman yield?

Mr. LAMBERTSON. I yield to the gentleman from Pennsylvania.

Mr. RICH. There is no defense for the squandering of \$30,000,000 for this thing in St. Louis.

Mr. LAMBERTSON. The gentleman is correct, and no Member from Missouri has stood up here in the last 7 months to defend it.

Mr. RICH. There is no defense.

Mr. LAMBERTSON. No one from St. Louis has, either.

Mr. RICH. The gentleman is right.

Mr. LAMBERTSON. There are three Members from St. Louis here, and they do not stand up here and defend this proposition.

The President made an agreement with the mayor to spend \$3 for \$1 for St. Louis in this deal. This involves a \$30,000,000 proposition, and it was hooted down by the House. You know the history of how this commission was created. St. Louis had to vote on the proposition.

I stop in St. Louis in going and coming from my home to Washington. It is generally accepted in St. Louis from the taxi drivers to the bell hops in the hotels that the election was stolen.

Mr. Speaker, I promise the Members of the House I will quit talking on this thing if an investigation is granted. My resolution for investigation is H. R. 295. It rests in the Rules Committee. The St. Louis Post-Dispatch thinks the election was stolen; the men in the street of St. Louis think it was stolen; everybody thinks the election was stolen; and if we could open up those ballot boxes the whole thing would fall, and that would be the end. There would be no need for anything else to be done. This is relief money they are using to build this memorial with and with which to buy 37 blocks of real estate. Four-fifths of this real estate has not been rented in 15 or 20 years. The mayor of St. Louis was the head of the realty board before being elected mayor, and his scheme is to unload all of this dilapidated stuff onto Uncle Sam and get the money. They do not care about Thomas Jefferson. As a matter of fact, Thomas Jefferson has a beautiful memorial in Forest Park. It was built during the world's fair that was held in St. Louis to commemorate the purchase of Louisiana. It is a very beautiful memorial. Mayor Dickmann, as president of the realty board, is seeking to unload a lot of this old junk upon Uncle Sam and get paid for it. The President was hoodwinked into this thing. There is no question about that. I entreat you to help me get a resolution through to investigate the whole business. That | is all I ask.

The St. Louis Post-Dispatch has given me three editorials in the last 10 days to substantiate my statements. It is going to remain there a long time yet. It has been out there in St. Louis among the common people a long time. One of these editorials is headed "That Mythical \$22,500,000 That Congress Has Not Authorized Yet."

All they have is the six and two-thirds set aside by the President of the United States from relief money. That is all they have, and there is no authorization or promise that Congress will complete the deal. This is an editorial on the mythical \$22,500,000.

The second editorial appeared last Wednesday at the time of Mayor Dickmann's visit to Washington. It makes light of the idea that he could get the money ahead of condemnation proceedings. The mayor promised the people before their bond election that 5,000 men would be put to work in 10 days. That was 2 years ago. He is on a hot spot now.

The last one appeared in last Saturday's Post-Dispatch and is entitled "Lest We Forget," in which there is set forth the crooked deal, a complete history of the St. Louis memorial project, and I have received permission to put these in the RECORD.

Mr. Speaker, in view of the fact that not a Member from Missouri will stand up here and defend this thing; in view of the fact that the St. Louis Post-Dispatch believes the whole business is crooked from top to bottom; in view of the fact that it will be relief money that will be used, which will go to a lot of realty bushwhackers, taking away from the hungry the food and clothing so many need, I think this whole matter is deserving of an investigation. Do you not think so, too?

### [From the St. Louis Post-Dispatch of November 9, 1937] THAT MYTHICAL \$22,500,000

Efforts are still being made to convey the impression that the Federal Government has agreed, or is in some way obligated, to put up

\$22,500,000, matching a \$7,500,000 contribution by the city, for a Jefferson Memorial project on the river front.

There has been no commitment, or any shadow of commitment, by the Federal Government to do anything of the sort. There has been no such commitment either by the executive branch of the

Government or by Congress.

What the people of St. Louis voted for in September 1935 on the face of the returns was a \$30,000,000 project which they had been told would put 5,000 men to work within 10 days. We say "on the face of the returns," for it was later shown that the election reeked with fraud.

As it stands today, the project calls for an expenditure of \$9,000,000, with the city putting up \$2,250,000 and the Federal Government \$6,750,000. Not a cent more than the \$9,000,000 is in

Now, the assessed valuation of the proposed memorial site is, according to figures used by Mayor Dickmann in urging the project, \$6,000,00. In a recent case in Judge Davis' Federal court, estimates of the real value of the property, as distinguished from the assessed value, ranged from \$7,000,000 to \$15,000,000. It is doubtful, therefore, whether the whole sum available—\$9,000,000—is enough to meet the price that must be paid to the owners, and, on top of that fact, it is extremely doubtful whether the terms of the Government's grant will permit the entire contribution to be used for land

In any case, the plain fact is that the project is no longer the \$30,000,000 Jefferson Memorial project on which the people voted 2 years ago, but a plan to spend \$9,000,000, of which all, or, at best,

years ago, but a plan to spend \$9,000,000, of which all, or, at best, all but a negligible sum, must go for the purchase of the site.

We repeat that there is no faint commitment on the part of the Government or any official thereof to increase the amount which the Government has allotted. To speak of "a grant of \$22,500,000 of Federal Government funds" is to speak of something that to date has been definitely refused. When the Jefferson Memorial idea was first pressed upon Congress, a resolution was introduced calling for a Government appropriation of \$35,000,000. It never got out of committee. What Congress finally passed was a resolution merely creating a Jefferson Memorial Commission, and even this resolution was not passed by the House till after was a resolution herely creating a selection mentional commission, and even this resolution was not passed by the House till after Representative Сосинам, its introducer, said in reply to heckling questions that he knew of no intention on the part of the memorial sponsors to ask Congress for money and that if they did

memorial sponsors to ask Congress for money and that if they did ask for money, "they would have a hard time getting it."

After the bond issue election in 1935, Mayor Dickmann spent 3 weeks in Washington, in November, in a vain effort to get from the public-works funds at the disposal of the President the \$22,500,000 necessary to match the city's \$7,500,000. On his return to St. Louis, the mayor issued a statement saying in part:

"The Attorney General held in a written opinion that the President could not legally and ought not morally blud the Government."

dent could not legally and ought not morally bind the Government

to the completion of a \$30,000,000 project by the acceptance of the city's \$7,500,000, unless the President had available at this time \$22,500,000 which could be definitely allocated as the Government's share of the cost. This amount the President said he did not have, and following the advice of the Attorney General, he declined to sign the Executive order submitted to him."

Later the mayor made another trip to Washington and succeeded in getting an allocation of \$6,750,000 from P. W. A. and W. P. A. funds, but the city was plainly given to understand at

W. P. A. funds, but the city was plainly given to understand at that time that for further funds it would have to go to Congress.

Any notion that the Federal Government is trying to hand the city \$22,500,000 for the improvement of the river front is a

fantastic distortion of the record.

#### [From the St. Louis Post-Dispatch of November 17, 1937] MAYOR DICKMANN'S MISSION

Mayor Dickmann is in Washington trying to persuade the National Park Service to take immediate possession of the proposed river-front memorial site, without waiting for the conclusion of condemnation proceedings.

We don't think he will have much luck. At least, he will not if the National Park Service separates fantasy from reality. If it falls in with the mayor's scheme, it may discover that the \$9,000,000 available (even assuming that all of it could be used for acquisition of property) is not enough to pay for the 37 blocks of river-

The Park Service would then have on its hands part of a proposed memorial site, with no money to wreck the buildings and clear the land, to say nothing of funds to develop a park commemorating the Louisiana Purchase and the great deeds of the western pioneers.

western pioneers.

It was to forestall just such a situation that the Government sometime ago altered its tactics toward acquiring the property. At first, it was in favor of negotiating privately with owners and of buying as much property as possible without resort to condemnation. What happened to change its mind? Did it discover the same thing the Progress Council discovered a few years ago, when it sought options on the same property, that owners had a swollen idea of its value? In any case, it was decided to attack the whole problem by condemnation, so that some unforeseen event would not leave the Government holding large blocks of property of which no possible national use could be made.

The whole memorial plan has been a comedy of errors, and the wisest thing, as we have repeatedly suggested, would be to scrap it and return the \$9,000,000 to the national and local treasuries.

### [From the St. Louis Post-Dispatch of November 20, 1937] "LEST WE FORGET"

In view of Mayor Dickmann's renewed effort to put over the Jefferson Memorial river-front project, it becomes pertinent to review some of the underlying facts.

On the theory that the project would cost \$30,000,000, with the city contributing one-fourth of the total, the voters of St. Louis were asked in September 1935 to authorize a bond issue of \$7,500,000 \$7,500,000.

The campaign for the bond issue was characterized by highpower promotion methods. The project was advertised as a means by which 5,000 men could be put to work within 10 days after the election. For the moment, the two warring Democratic fac-

the election. For the moment, the two warring Democratic factions, one headed by Mayor Dickmann, the other by William Igoe, buried the hatchet and united to "get out the vote."

Despite concerted efforts of politicians and civic leaders, a preelection canvass indicated the bond issue was in grave danger of fallure. On election eve, Mayor Dickmann called his henchmen together and, in a rousing speech, warned them that the bond issue simply had to win, telling them they would be held responsible for the results in their wards and precincts, and adding the cryptic but well-understood threat, "and I don't mean maybe."

On the face of the returns, the bond issue passed by a vote of 123,135 to 50,574—a slender margin of 7,663 more than the two-thirds majority required for passage.

A year later, in September 1935, the Post-Dispatch published the results of its investigation of the election, proving conclusively, by signed affidavits of voters and sworn confessions of elec-

the results of its investigation of the election, proving conclusively, by signed affidavits of voters and sworn confessions of election officials, that gross frauds had occurred.

An examination of the returns by wards established the highly suspicious fact that, although one-third of the city's vote was evenly divided for and against the bond issue, and that vote was scattered through nine wards in different parts of the city, the other two-thirds of the vote was 5 to 1 for the bonds!

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The aggregate vote of the nine wards was 33,243 "yes" and 31,958 "no," far less than the necessary two-thirds. But in the 19 other wards the vote was 89,892 "yes" to only 18,618 "no."

When the vote in the 19 wards, which included the river and other boss-controlled wards, was broken down by precincts, the suspicion of fraud became irresistible. In precinct 2, ward 5, the recorded vote was 398 to 1. In other precincts the recorded vote was 561 to 8,400 to 6,368 to 4. First prize, however, went to precinct 4, ward 22, where every single citizen eligible to vote was certified as having visited the polls on election day. The count was 505 for the bonds, none against.

In 38 precincts of the 19 "yes" wards, 12,328 votes were counted for the bonds and only 201 against—a ratio of 60 to 1.

A recheck was made by Post-Dispatch investigators in precincts where the returns bore on their face presumptive evidence of

fraud. A house-to-house canvass of registered voters was undertaken. This was continued until it was found that more votes were cast against the bond issue than were credited in the returns. Affidavits and statements from the "no" voters were procured.

Thus in a number of precincts, where the official returns showed only 158 adverse votes, a merely fragmentary canvass showed

335 adverse votes.

As the investigation proceeded, election officials came forward to verify the evidence of fraud. Typical of them was John L. Roady, election clerk in precinct 7, ward 21. He swore as follows: "After the polls closed they put at least 200 ballots in the box. We had about 250 legitimate ballots when the polls closed, but the announced vote for the precinct was 427 to 27 in favor of the bonds."

The upshot of the Post-Dispatch investigation was to prove that in each of the 19 wards where the bonds were recorded as passed, flagrant fraud occurred.

This finding cast grave doubt on the election as a whole. It

presented presumptive evidence that the election was stolen—that the voters rejected the bond issue instead of authorizing it.

As a logical sequel to this unofficial and incomplete survey, there should have been a searching investigation by the grand jury, including the reopening of the ballot boxes and a recount of the votes.

To that end Circuit Attorney Miller, to forestall the usual custom of burning ballots after 1 year, ordered them impounded until such time as he could present the case before the grand

Jury.

At the time the June grand jury's term was expiring, and the succeeding grand jury was occupied with the frauds that had occurred in the August primary.

It was not until the December grand jury convened that the circuit attorney was able to present the river-front bond-issue frauds. The history of that grand jury is one of the most shocking chapters in the city's annals.

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It was picked by Circuit Judge Eugene L. Padberg, who chose as its foreman Patrick R. FitzGibbon, veteran Democratic politician and a jobholder in the Rolla Wells administration, who had two sons, a son-in-law, and a nephew on the city pay roll. Three other members of that jury had past or current political associations with the local Democratic party. Thus there was a total of four persons connected with politics, or a number just sufficient to block an indictment, which requires a vote of 9 to 3.

Judge Padberg failed to instruct the jurors to look into the river-front bond-issue election, but the gap was filled when Circuit Attorney Miller laid the facts before them.

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A few days after it convened the jury announced it would not look into the frauds, its foreman explaining that the memorial was a "good thing" for the city and the jury did not care to do anything to jeopardize the undertaking.

One week after this decision was made the grand jury met and again refused to investigate the frauds. It adjourned until January. When it reconvened, this time under former Judge J. Wesley McAfee, it was summarily dismissed for its flagrant violation of duty—the first time in the city's history that such action had been taken by a circuit judge.

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The next grand jury was called by Judge Joynt, who instructed it to go into the river-front bond-issue election frauds, and said it had a right to open the ballot boxes. But a few days later Judge Joynt reversed himself and said the jury could not open the ballot boxes. To quote from an editorial we printed at the

"It was as bizarre a proceeding as has ever been on public view in St. Louis. The motion upon which Judge Joynt acted was offered by three political lawyers, acting in the name of five citizens of Mike Kinney's fifth ward, all of whom confessed they were acting as dummy plaintiffs." They had been solicited to sign their names to the motion, had no interest in the case, and had paid the lawyers nothing.

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This and subsequent legal proceedings, so tortuous as to be unintelligible to the lay mind, have successfully prevented public inquiry and prosecution of the election thieves.

The tie-up between the political machine responsible for the fraudulent voting and the machinery of law enforcement has prevented the airing of a public scandal.

However that may be, the undisputed and indisputable proof of wholesale fraud uncovered by the Post-Dispatch in September 1936 stands in the record.

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Such is the background of a project whose aim is to memorial-ize that great apostle of democracy, Thomas Jefferson.

As we said on September 9, 1936:
"The city cannot afford to have it said that the building of a great monument with the people's funds is being promoted by fraudulent methods; it cannot afford to issue bonds tainted with the suspicion of dishonesty in the election back of them; it cannot afford to let the bonds which have already been sold rest under this suspicion.

"In good conscience, the city cannot afford to go forward with the memorial project unless and until it is proved by an official recount that the certified result of the election of last September was an honest expression of the people's will."

# EXTENSION OF REMARKS

Mr. PETTENGILL. Mr. Speaker, I ask unanimous consent to extend my own remarks in the RECORD on two different subjects.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

#### PERMISSION TO ADDRESS THE HOUSE

Mr. RICH. Mr. Speaker, I ask unanimous consent to proceed for 3 minutes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. RICH. Mr. Speaker, I believe that every Member of the House of Representatives in Congress realizes there is a state of war now existing between Japan and China. Is it possible for some Member of Congress to convince the President of the United States that a state of war does exist over there? If so, I would like to have someone do it. Why can he not see it? Why does he think there is not?

We passed a neutrality act at the last session of Congress by which we endeavored to have the United States stay out of foreign entanglements. Today there are Americans doing various things in foreign countries with and by the consent and advice of the President that might eventually involve us in war. If the American people are ever going to wake up to the fact that a state of war exists in the Orient, they ought to do it now and not wait until we are implicated in a war of some kind with a foreign nation for any cause, no matter what the cause might be, because there is no act that is so important it has to be settled by sending our boys across the seas to fight on foreign soil. I am against war and will do anything to prevent it. Let us put our Neutrality Act in effect. Mr. President, do it now. [Applause.]

I am interested in another thing. We are now trying to formulate an agricultural plan. The House committee has been working diligently, but it seems as if the ideas of the Members of Congress are not going to be included in the bill which may be brought into the House because of the fact there are some people down in the Agricultural Department who are going to run the agriculture of this country, notwithstanding the fact that Members of Congress and the farmers of America might want to give their views with reference to the proposed bill. I have had three or four Members from the South ask me about my views with reference to agriculture today. I have a great interest in the farmers. I am interested in the cotton farmers of the South as well as the farmers of every other part of the country-the wheat farmer, the potato farmer, and the dairy farmer. It is a wrong philosophy to try to regulate the farmers, and prohibit the production of farm commodities, which makes for a scarcity so that the people of this country have to pay high prices, and at the same time we are not exporting any of our com-

Raise more, put more men to work, consume more, and let everybody have all they want to eat, do not let anyone starve, and remember that old slogan, "Hokey-Pokey, 5 a cake, the more you eat the more we make." The more a farmer produces and gets a fair price the more people can and will buy and the more satisfaction and contention among all our people. Let the slogan be "One for all and all for one."

Let the agriculture Members of the House write the bill that is to benefit the American farmer and not the Department of Agriculture who have a policy of destruction and scarcity as their guide and goal. Let us adopt the principle for the American people-more to eat and more to wear; this will help the farmer, the laborer, and the manufacturer.

[Here the gavel fell.]

# LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to Mr. Boylan of New York (at the request of Mr. O'Connor of New York) on account of illness.

### SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 2601. An act to provide for refund of amounts collected as tax under the Bankhead Cotton Act of 1934; the Kerr Tobacco Act, as amended; and the Potato Act of 1935; to the Committee on Agriculture.

#### ADJOURNMENT

Mr. RAYBURN. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 3 o'clock and 45 minutes p. m.) the House adjourned until tomorrow, Tuesday, November 23, 1937, at 12 o'clock noon.

### COMMITTEE HEARING

### COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE

There will be a meeting of the sales tax subcommittee of the Committee on Interstate and Foreign Commerce at 10 a. m., Tuesday, November 30, 1937. Business to be considered: Hearings on H. R. 4722, H. R. 4263, and H. R. 4214.

### EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

844. A letter from the secretary, Interstate Commerce Commission, transmitting a copy of the decision by division 3, dated October 15, 1937, in air-mail docket No. 25; to the Committee on the Post Office and Post Roads.

845. A letter from the secretary, Interstate Commerce Commission, transmitting a copy of the decision by division 3, dated October 21, 1937, in air-mail docket No. 27; to the Committee on the Post Office and Post Roads.

846. A letter from the secretary, Interstate Commerce Commission, transmitting a copy of the decision by division 3, dated September 16, 1937, in air-mail docket No. 14; to the Committee on the Post Office and Post Roads.

847. A letter from the secretary, Interstate Commerce Commission, transmitting a copy of the decision by division 3, dated September 7, 1937, in air-mail docket No. 11; to the Committee on the Post Office and Post Roads.

848. A letter from the secretary, Interstate Commerce Commission, transmitting a copy of the decision by division 3, dated September 15, 1937, in air-mail docket No. 24; to the Committee on the Post Office and Post Roads.

# PUBLIC BILLS AND RESOLUTIONS

Under clause 3 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. JENKINS of Ohio: A bill (H. R. 8464) to repeal the surtax on undistributed profits and the limitation on capital net losses; to the Committee on Ways and Means.

By Mr. GIFFORD: A bill (H. R. 8465) providing for the examination and survey of the harbor at Pond Village Landing, Truro, Mass.; to the Committee on Rivers and Harbors.

By Mr. THOMPSON of Illinois: A bill (H. R. 8466) authorizing the city of Rock Island, Ill., or its assigns, to construct, maintain, and operate a toll bridge across the Mississippi River at or near Rock Island, Ill., and to a place at or near the city of Davenport, Iowa; to the Committee on Interstate and Foreign Commerce.

By Mr. LANHAM (by request): A bill (H. R. 8467) to amend section 5 of the 1905 Trade-Mark Act, as amended, and for other purposes; to the Committee on Patents.

By Mr. WALTER: A bill (H. R. 8468) to provide for additional United States district judges in the States of Georgia, Louisiana, Texas, Michigan, Ohio, Washington, California, Kansas, and the District of Columbia; to the Committee on the Judiciary.

By Mr. WILCOX: A bill (H. R. 8469) granting exemption from taxation of so much of the net income, not exceeding 50 percent thereof, of individuals and corporations as shall be used for construction or repair of buildings or other improvement of real estate; to the Committee on Ways and Means.

By Mr. PETERSON of Florida (by request): A bill (H. R. 8470) to amend the now existing pay schedules of the enlisted personnel of the Army, Navy, Marine Corps, and Coast Guard; to the Committee on Military Affairs.

By Mr. SNELL: A bill (H. R. 8471) to repeal section 14, title I (surtax on undistributed profits), and section 117, title I (capital gains and losses), of the Revenue Act of 1936; to the Committee on Ways and Means.

By Mr. POAGE: A bill (H. R. 8472) to provide parity of prices paid to farmers for cotton marketed by them for domestic consumption, and for other purposes; to the Committee on Agriculture.

By Mr. MAGNUSON: A bill (H. R. 8473) to authorize the coinage of 50-cent pieces in commemoration of the fiftieth anniversary of the admission of the State of Washington to the Union; to the Committee on Coinage, Weights, and Measures.

By Mr. DIXON: A bill (H. R. 8474) to provide benefits for women who served with the American Expeditionary Forces during the World War; to the Committee on World War Veterans' Legislation.

By Mrs. ROGERS of Massachusetts: Resolution (H. Res. 358) providing for the appointment of a select committee of House Members by the Speaker to inquire into the operation of all trade agreements entered into by the United States and foreign Governments to ascertain (a) their effect upon the production of American manufactures and farm products; (b) their effect upon employment of labor in industry and agriculture; and (c) their effect upon wage scales, wages in general, and the cost of living and standards of living; to the Committee on Rules.

By Mr. CULKIN: Resolution (H. Res. 359) asking investigation of reports of wire tapping in the Department of Interior; to the Committee on Rules.

By Mrs. NORTON: Resolution (H. Res. 360) authorizing the Committee on Labor of the House of Representatives to have printed for its use additional copies of part 2 of the joint hearings on the bills (S. 2475 and H. R. 7200) to provide for the establishment of fair labor standards in employments in and affecting interstate commerce, and for other purposes; to the Committee on Printing.

By Mr. SCOTT: Resolution (H. Res. 361) authorizing an investigation of the National Bituminous Coal Commission; to the Committee on Rules.

By Mr. FULMER: Joint resolution (H. J. Res. 513) providing for cotton price-adjustment payments to cotton producers who suffered a partial or total cotton-crop failure; to the Committee on Agriculture.

By Mr. TAYLOR of Colorado: Joint resolution (H. J. Res. 514) proposing an amendment to the Constitution of the United States fixing the terms of office of Representatives in Congress; to the Committee on Election of President, Vice President, and Representatives in Congress.

Also, joint resolution (H. J. Res. 515) proposing an amendment to section 7, article I, of the Constitution of the United States, permitting the President of the United States to disapprove or reduce any item or appropriation of any bill passed by Congress; to the Committee on the Judiciary.

## PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. ALESHIRE: A bill (H. R. 8475) for the relief of Forest E. Counts; to the Committee on Claims.

By Mr. DIMOND: A bill (H. R. 8476) for the relief of Mrs. A. Burr; to the Committee on Claims.

By Mr. FERNANDEZ: A bill (H. R. 8477) for the relief of Mato, Miljenko, Bozo, and Augustin Cibilic or Zibilich; to the Committee on Immigration and Naturalization.

By Mr. GREEN: A bill (H. R. 8478) to confer jurisdiction upon the United States District Court for the Southern District of Florida to determine the claim of Ella McGriff; to the Committee on Claims.

By Mr. IZAC: A bill (H. R. 8479) for the relief of Jane Murrah; to the Committee on Claims.

By Mr. McMILLAN: A bill (H. R. 8480) for the relief of Lt. Comdr. James T. Mathews; to the Committee on Claims.

By Mr. O'BRIEN of Illinois: A bill (H. R. 8481) for the relief of Oskar Herlins; to the Committee on Immigration and Naturalization.

#### PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

3385. By Mr. KEOGH: Petition of the Swan Finch Oil Corporation, of New York City, concerning repeal of certain taxes; to the Committee on Ways and Means.

3386. Also, petition of the Investment Bankers' Association of America, Boston, Mass., concerning capital gains and undistributed profits taxes; to the Committee on Ways and Means.

3387. Also, petition of the Brotherhood of Railroad Station Porters, Philadelphia, Pa., concerning the wage and hour legislation favoring red caps; to the Committee on Labor.

3388. Also, petition of the Wagner Baking Corporation, Newark, N. J., concerning taxes on wheat, cotton, rice, etc.; to the Committee on Ways and Means.

3389. By the SPEAKER: Petition of the District organizing committee of the United Federal Workers of America, praying for the enactment of House bills 8428 and 8431; to the Committee on the Civil Service.

3390. Also, petition of the National Restaurant Association, Chicago, Ill., pertaining to wages and hours; to the Committee on Labor.

3391. By Mr. CULKIN: Petition of the Chamber of Commerce of the State of New York, opposing enactment into law of the Black-Connery wage and hour bill; to the Committee on Labor.

3392. Also, petition of members of Albion Center Grange, No. 270, Altmar, N. Y., opposing the adoption of the Black-Connery wage and hour bill; to the Committee on Labor.

3393. Also, petition of the Lewis County committee of the American Legion, Department of New York, protesting against the United States entering into reciprocal-trade agreements and concessions with any foreign country which will permit foreign-made goods to be sold in competition with American goods; to the Committee on Ways and Means.

3394. Also, petition of the Brookfield Grange, No. 1235, Brookfield, N. Y., opposing the passage of the Black-Connery wage and hour bill; to the Committee on Labor.

3395. Also, petition of the American Hotel Association of the United States and Canada, opposing the provision of the Black-Connery wage and hour bill or any other national legislation affecting wages and hours; to the Committee on Labor.

3396. Also, petition of the Domestic Grange, No. 98, Scriba, N. Y., with 300 members, opposing passage of the Black-Connery wage and hour bill; to the Committee on Labor.

3397. Also, petition of the Owahgena Grange, No. 1358, Cazenovia, N. Y., opposing the Black-Connery wage and hour bill; to the Committee on Labor.

3398. Also, petition of the Madison County Pomona Grange, New York, opposing war as a means to settle international disputes; to the Committee on Foreign Affairs.

3399. Also, petition of the American Hotel Association of the United States and Canada favoring modification, repeal, or amended of the undistributed-profits tax and the capital gains tax; to the Committee on Ways and Means.

3400. Also, petition of the New York Board of Trade, favoring immediate repeal of the undistributed profits tax; to the Committee on Ways and Means.

3401. Also, petition of the Woman's Christian Temperance Union of Pretty Prairie, Kans., urging enactment of the Capper-Culkin anti-liquor-advertising bill (H. R. 4738); to the Committee on Interstate and Foreign Commerce.

3402. Also, petition of the Woman's Christian Temperance Union of LaFargeville, N. Y., urging early consideration of motion-picture bills (S. 153, H. R. 1669, 22, and 23); to the Committee on Interstate and Foreign Commerce.

3403. Also, petition of the New Haven Grange, New Haven, N. Y., opposing passage of the Black-Connery wage and hour bill: to the Committee on Labor.

3404. By Mr. FISH: Petition signed by Ella P. Haight and 34 other residents and citizens of Bangall and Stanford-ville, Dutchess County, N. Y., favoring the Capper-Culkin bill to prohibit radio liquor advertising; to the Committee on Interstate and Foreign Commerce.

3405. Also, petition of 30 residents and citizens of Amity, Orange County, N. Y., favoring House bill 3140, which prohibits the advertising of alcoholic beverages by radio; to the Committee on Interstate and Foreign Commerce.

3406. By Mr. LUTHER A. JOHNSON: Petition of D. L. Fussell, A. J. Sanders, S. J. Camay, L. B. Cry, B. S. Hudgins, G. O. Lewis, Ed Latimer, H. W. McGilvray, S. J. Callaway, J. C. Roberts, C. A. Roberts, J. Roberts, L. R. Fegurson, P. R. Calloway, B. C. Hamilton, and B. A. Thompson, members of the Mount Calm Agricultural Association, Mount Calm, Tex., making recommendations concerning the farm bill as affecting production of cotton; to the Committee on Agriculture.

3407. Also, petition of J. P. Sewell, Midlothian, Tex., and E. H. Hines, Groesbeck, Tex., making recommendations concerning the farm bill as affecting production of cotton; to the Committee on Agriculture.

3408. By Mr. POLK: Petition signed by W. J. Boyd and 27 other employees of the Norfolk & Western Railroad Co., asking that the Railroad Retirement Act be amended to provide for optional retirement with full benefits at age 60 and compulsory retirement at age of 65; to the Committee on Interstate and Foreign Commerce.

3409. Also, petitions signed by John W. Craig, O. H. Morrow, Morgan Wellman, and 12 other employees of the Norfolk & Western Railroad Co., asking that the Railroad Retirement Act be amended to provide for the retirement of railroad employees at age of 60; to the Committee on Interstate and Foreign Commerce.

3410. Also, petition signed by B. R. Wallace and 55 other employees of the Norfolk & Western Railroad Co., asking that the Railroad Retirement Act be amended to provide for the retirement of railroad employees at age of 60; to the Committee on Interstate and Foreign Commerce.

3411. Also, petition signed by O. M. Duncan and 36 other employees of the Norfolk & Western Railroad Co., asking that the Railroad Retirement Act be amended to provide for the retirement of railroad employees at age of 60; to the Committee on Interstate and Foreign Commerce.

3412. By the SPEAKER: Petition of the Jewish peoples committee, setting forth the plight of the Jews in Poland; to the Committee on Foreign Affairs.

3413. Also, petition of the Kerrs Legal Research Bureau, relating to court reorganization bill; to the Committee on the Judiciary.

3414. Also, petition of the Labor Alliance of America, relating to the proposed Supreme Court bill; to the Committee on the Judiciary.

3415. Also, petition of Charles X. Newman, relating to the employment under Works Progress Administration; to the Committee on Appropriations.

3416. Also, petition of the colored citizens at Pilgrim Baptist Church, Chicago, Ill., relating to the Supreme Court bill; to the Committee on the Judiciary.

3417. Also, petition of the committee on activity, Sons of the Revolution, relating to the reorganizing of the judiciary; to the Committee on the Judiciary.

3418. Also, petition of the Kings County Consolidated Civic League, relating to housing projects; to the Committee on Banking and Currency.

3419. Also, petition of Crescent Lodge, No. 115, Knights of Pythias, relating to the death of the Honorable R. P. Hill; to the Committee on Memorials.